

October 1979/\$1.75

California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

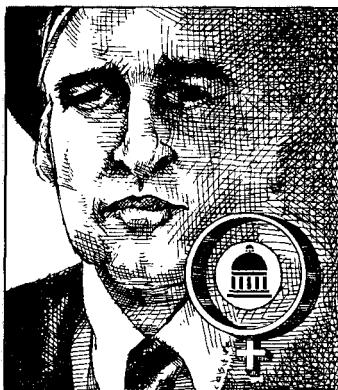
SPECIAL SECTION
November Propositions

The vendetta-ridden Supreme Court



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

By Ed SALZMAN



Brown and the political woman

California's premier political cartoonist, Paul Conrad, might have gone a bit overboard with a drawing that showed Tom Hayden returning home to find his wife, Jane Fonda, cuddled on the lap of a wheelchair-bound Jerry Brown. The cartoon was entitled "Coming Home" after the Fonda film of the same name.

Although the sexual message is off base, the cartoon is on the mark if Fonda is viewed as a symbol of recent female progress in California politics. If women start winning the state's highest offices — governor and senator — within a relatively short time, much of the credit should go to Jerry Brown. In fact, it could turn out that some day a woman will win the Senate seat sought by the ambitious Hayden.

Only a few years ago, women held relatively few elective or high appointive offices in California. There had never been a woman in the state Senate, and there were a few token females in the Assembly and the congressional delegation. Former state Treasurer Ivy Baker Priest and Secretary of State March Fong Eu are the only women ever elected to statewide office.

There are now two women in the Senate and nine in the Assembly. The Republican leader in the lower House is Carol Hallett, and for that any credit must go to the Assembly GOP caucus that elected her. But the most significant gains have not come in the Legislature or in the voting booth; they have come in the gubernatorial appointment process.

Now, for the first time in state history, there are women in positions of power throughout state government. Brown didn't stop with his symbolic selection of Rose Elizabeth Bird as chief justice of the Supreme Court. He has named many more women to judicial positions. In his administration, there are Mary Ann Graves, finance director; Mary Nichols, environmental secretary and chairperson on the Air Resources Board, Alice A. Lytle, secretary of state and consumer services; Adriana Gianturco, CalTrans chief, Beverlee Myers, state health director. In his own office, Brown has women in two key spots — Diana Dooley as legislative secretary and Carlotta Mellon as appointments secretary. He also broke the sex barrier on the Los Angeles supervisors with the appointment of Yvonne Brathwaite Burke.

Whatever else Brown may have done and for whatever political motive, he has advanced the efforts of women to gain equality in government service more than any Californian in history. Brown's presidential campaign (which has no women in the high command, incidentally) undoubtedly will make every effort to let the fact be known to potential delegates to the Democratic National Convention. (More than half the delegates are expected to be women.)

Who will be California's first woman governor? That question may be impossible to answer, but current trends indicate that she might well be a Republican. Four of the nine Assemblywomen are Republicans and Hallett has climbed to the highest post ever achieved by a female member of the Legislature.

A few years ago, women in California were struggling merely to establish a beachhead in the male-dominated political world. Now, thanks to Brown and the Assembly Republicans, they are within reach of the top.

PRESIDENT AND PUBLISHER

Thomas R. Hoeber

EDITOR

Ed Salzman

ART DIRECTOR

Jan Castle

MANAGING EDITOR

Alice Nauman

WASHINGTON CORRESPONDENT:

Leo Rennert

CONTRIBUTING ARTISTS:

Donna Rivers, Evan Nossoff,
Kelli Bullock

CIRCULATION MANAGER:

Barbara Aguirre

STAFF: Hope Tuttle, Caroline

Landry, Jacqueline Robertson

CALIFORNIA JOURNAL is a non-partisan, non-ideological analysis of California government and politics established in 1970 and published monthly by the California Center for Research and Education in Government, a non-profit, tax-exempt corporation.

Indexed in the Public Affairs Information Service and the New York Times Information Bank.

BOARD OF DIRECTORS

EUGENE C. LEE, Chairman, director of the Institute of Governmental Studies, University of California, Berkeley.

LOU CANNON, western bureau chief, *Washington Post*, Los Angeles.

JUDSON CLARK, California Research, Sacramento.

HOUSTON I. FLOURNOY, vice president — governmental affairs, University of Southern California, Los Angeles.

THOMAS R. HOEBER, publisher, *California Journal*, Sacramento.

HAROLD KEITH, investments, Beverly Hills.

ROSELLEN KERSHAW, past president, California Division, American Association of University Women, Fresno.

MELVIN B. LANE, president, Lane Publishing Co., Menlo Park.

DONALD G. LIVINGSTON, vice president, Carter Hawley Hale Stores, Inc., Los Angeles.

EDWIN MEESE III, attorney, La Mesa.

YOLANDA NAVA, news reporter, KXTV Channel 10, Sacramento.

MARCEL B. POCHÉ, Justice, First District Court of Appeal, San Francisco.

MADELEINE H. RUSSELL, former Democratic national committeewoman, San Francisco.

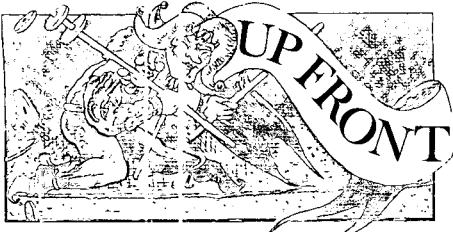
VAINO SPENCER, Superior Court Judge, Los Angeles.

COUNSEL: Conrad Lee Klein.

AUDITORS: Arthur Young & Company.

Subscription rates: Libraries and Governmental Agencies, \$30; Corporations and Associations, \$50; Special Individual Rate, \$18.

Copyright 1979 by California Center for Research and Education in Government, 1617 10th Street, Sacramento, California 95814. Telephone: (916) 444-2840. Second-class postage paid at Sacramento.



The liberal California Tax Reform Association has decided that it is all but hopeless to buck the conservative trend in the Legislature. So here comes another tax initiative, this one from the left. The association's Jonathan Lewis says the main thrust of the proposal will be a simplification of the income tax. Net result: Most Californians will pay less. Those who now take heavy deductions, especially from capital gains, would pay more.

Richard Maullin was pressured into leaving his post as chairman of the Energy Commission to join the Brown-for-President campaign before he wanted to leave. Commissioner Gene Varanini pushed Maullin out by threatening, if necessary, to go to the FBI with a charge that Maullin, in effect, was collecting federal funds (because much of the commission's work is Washington-funded) while working on a political campaign.

Some male members of the Assembly conducted a mini-boycott of a Sacramento fund-raising function of the National Women's Political Caucus. The instigator was Assemblyman Leroy Greene of Sacramento, who spread the word that some of the proceeds might be used to help Joan Reiss beat him in the Democratic primary next year. The caucus was forced to find a substitute for the announced master of ceremonies, Assemblyman Willie Brown. One assemblyman who couldn't stay away: Walter Ingalls, who was named "Chauvinist Pig of the Year" for his attacks on CalTrans director Adriana Gianturco.

Former Democratic state Chairman Bert Coffey, not state Health and Welfare Secretary Mario Obledo, deserves "credit" for being the first to call our secretary of state March Foo Young in public.

The announcement by Assemblyman Mike Gage of Napa that he will not seek re-election raises the possibility that another Turney will soon appear on the statewide political scene. Gene Tunney Jr., the Sonoma County district attorney and brother of the former U.S. senator, has long been interested in running for the Legislature (and beyond). The word from Sonoma is that he is a more attractive candidate than brother John, who hankers to resume his political career, if that's possible.

Table of CONTENTS

Hayakawa's tarnished image

337

By George Baker

Ill-chosen words and White House snoozes have made California's junior senator a tempting target for 1982.

The predictable Jerry

340

By Ed Salzman

Governor Brown is out to prove he's trustworthy; Ronald Reagan must show he's neither too old nor too conservative.

The Supreme Court's decline

343

By K. Connie Kang

In public hearings and private chambers, the justices' personal vendettas have bred tragic chaos.

Mono Lake's troubled waters

349

By Ron Bass

A campaign to save "nature's strange freak" faces powerful opposition from a thirsty Los Angeles.

Special Section

1979 Ballot Propositions

The Journal presents background and arguments for and against the four issues on November's special-election ballot.

Kern County, oil sheikdom

355

By Maureen McCloud

Dreams of Boomtown profits from heavy crude oil must await the realities of air pollution and energy politics.

Voting outside the barrio

358

By Marty Coren

Hispanic leaders at last?

359

By Ray Gonzales

From East Los Angeles, David Lizarraga is pointing the way to new political power for the state's Chicanos.

Santa Barbara's big 'no'

362

By Jerry Rankin

"State water means more growth," said the Jolly Green Giant - and the city's voters got the message.

Revolt of the renters

365

By Mark Forster

Landlords and city fathers learned in a rent-control battle that Santa Monica is changing.

Herb-asides	336	Newsmakers	359
Strictly opinion	348	Roll call	368
Courts	347	Charting the issues	370
Leo Rennert			371

HERB-ASIDES

By Herb Michelson

The pending crisis of 1980 for our state's leading Democrats is Gaunt.

True, in some places — Mill Valley, Laguna Beach, Rancho La Costa — Gaunt is good. It's true, too, that Gandhi (Mahatma, not Madame) was Gaunt and survived politically, if not nutritionally. But don't forget that Gandhi served a Gaunt electorate — before television.

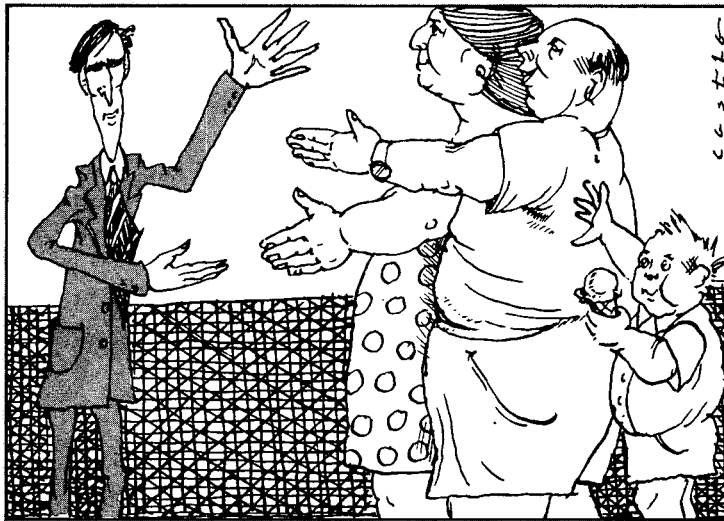
Gaunt would not fly today in Bombay, or Peoria, or El Centro. That is why Alan Cranston, our senator who stays awake, and Jerry Brown, chief of staff to Gray Davis, could be in trouble in 1980 when they take their Gauntness into the precincts.

Reliable Toledos report that Cranston has lost 25 pounds in the last four years. He has lost this weight because he runs and is careful about his diet. Cranston ran before it became trendy to run, before Adidas put the make on everybody, almost before Boston had its marathon. I also have documented proof (a bottle deposit receipt) that Cranston drank Perrier as early as 1956, when Perrier was sold only at night in alleys and without squeezes of lime.

Cranston did not lose his 25 pounds because of public pressure or a Field Poll. (You may recall that in August, Merv sampled 13 people in Marin County as to their preference between Gaunt and Ungaunt candidates. Twelve of them responded, "Heavy question, man," and the thirteenth accused him of being a narc, which involved another poll entirely.)

To Cranston's credit, he has resisted the urgings of his staff to gain weight before facing the voters next year. Unless William Howard Taft runs against him. Cranston always has been a "what you see is what you get" sort of candidate.

Brown, on the other foot, comports himself with a "what you get is what you want to see" mien. In late spring he began jogging because (1) key aide Dick Silberman was afraid to jog in Sacramento's Capitol Park alone; (2) he hadn't done anything far out lately and needed ink, and (3) he wished to give the impression he was almost like a regular person, although few regular persons jog in three-piece, pinstriped, Brooks Brothers gabardine. (Even the Brooks Brothers buy their sweat-suits at Sears.)



Soon, the governor lost 30 pounds — and Silberman. But Brown did not realize how Gaunt he had become. Whenever he appeared before a television camera, which was whenever he could locate a television camera to appear before, Brown could barely be seen. It was as if a microphone were being interviewed by another microphone.

Television news directors throughout the state were beginning to refer to Brown as "a talking wisp."

Newspapers in late August began running contests involving pictures of gubernatorial press conferences in which the readers were asked to "Find the Governor and Win \$15." Nobody won.

Manufacturers of micro-dots were asking Brown to endorse their wares. Steve Cauthen challenged him to a match race at Santa Anita, where, of course, Deputy Secretary of State Mike Gagan bet on Cauthen.

Brown's staff met with Cranston's staff in hopes of finding a persuasive argument to fatten their tigers. Still, the governor and the senator balked. By Labor Day, they took Gaunt on the road in joint appearances at union picnics; that is, Cranston carried Brown in his pocket and pulled out a handkerchief when introducing him.

State Democratic Party leaders, seeing this, sensed trouble ahead. Because they knew Cranston was always Gaunt and wished to remain Gaunt, because they knew Brown believed Gaunt was In, the leaders realized they had to take a bold step.

"Let's see," the chairman of Fresno County told the chairman of Riverside County. "Brown's lost about 45 pounds by now and Cranston's dropped about 28."

"That makes a total of 73 pounds," said the Riverside chairman alertly. "Are you thinking what I'm thinking?" asked LA County. Obviously, the other two were.

And so it was that on the day after Labor Day, a new Democratic politician had been created in California, weighing 73 pounds at birth but sure to add bulk by the '80 elections. They called him Bronston. He was not exactly a clone; but he was not exactly Gaunt either.

Herb Michelson is a columnist for the Sacramento Bee. His humorous meanderings through the world of California politics are a regular Journal feature.

Did Hayakawa destroy his 'charming wit' image?

By GEORGE BAKER

Remember when Senator S. I. Hayakawa used to be funny and witty? He was a charming rogue who made outlandish statements about the world condition, and we all chuckled and thought: He may be old but he is funny.

What pleasant days those must have been for the feisty California Republican, basking in the glow of his conservative colleagues' accolades and proposing yet one more novel, if slightly half-baked plan, to purge the federal government of its sins.

Storm of outrage

But then Hayakawa walked out of a meeting with President Carter, Governor Brown and others at the White House last May to discuss California's gasoline shortage. It was there that he uttered those immortal words which, as one White House wag suggested, will forever enshrine him in the Marie Antoinette Hall of Fame.

There would be nothing wrong with letting the price of gasoline rise to \$2 a gallon or more, he told reporters waiting outside the White House. "A lot of poor don't need gas because they're not working," he declared.

It was with good reason that a number of Democratic congressmen standing behind Hayakawa ran for cover when the television cameras began zooming in on him. His comments provoked a storm of outrage from rich and poor alike who sensed that Hayakawa was being more than flippant about the poor.

At first, Hayakawa didn't know what to make of all the fuss. And with good reason. For years he has been making similarly caustic remarks which seemed to bother no one. For instance: "I say in all seriousness that nowadays it pays to be unemployed," he said a while ago. "Is it right to make



hungry college students do without food stamps? You bet it is." Or, "One of the shortcomings of this bill is that it reflects certain cliché ways of thinking about the poor, as if they were a different class of people from the affluent. The poor are capable of bringing up children in log cabins to become president."

But in 15 seconds of television time, Hayakawa managed to epitomize the simplicity of his economics and his low regard for the underprivileged. It was one thing to brand food-stamp recipients as mostly part-time Berkeley students studying granola manufacturing. It was quite another to say the price of gasoline doesn't matter, when every Californian knows — or at least thinks — that it does.

Nor was it lost on a number of people that Hayakawa could speak

easily of paying higher prices. He and his wife have a personal net worth of between \$1 and \$4 million. They saw no reason to reduce rents on the apartments they own after passage of the tax-slashing Proposition 13.

That Hayakawa should impale himself on a few, imprecisely spoken words provided loads of irony, given his standing as a world-renowned semanticist, well-versed in the use of language as a political tool.

Nodding off

To make matters worse, it soon developed that he had occasionally fallen asleep during meetings with President Carter. After all, if you sleep in the presence of the president, it is a good bet you snooze at other, less pretentious times. These two incidents, coming just days apart, have probably put an end to whatever ambitions Hayakawa might have about winning another six-year term in 1983. With the election still more than three years away, the Young Turks in the California GOP are getting restless and ambitious, and their Democratic counterparts are licking

George Baker covers the nation's capital for the McClatchy newspapers.

their chops in anticipation of the race.

Lieutenant Governor Mike Curb and Attorney General George Deukmejian are casting their eyes on higher office, but it is unlikely that both will run for governor. That leaves the Hayakawa seat a likely goal for one of them, or for some other upwardly mobile Republican.

There is a growing sense that Hayakawa will be so vulnerable to a Democratic challenger that the GOP would be better off easing him out of the race in hopes of fielding a stronger — and younger — candidate. By then, the senator will be 76, a fact that could make his age a prime election issue.

Hayakawa insists that he has no intention of being a one-term senator. He scoffs at speculation that Curb or Deukmejian might be maneuvering to squeeze him out.

Actually, Hayakawa was running into political problems even before his famous gasoline remark. While he has had a relatively high popularity rating for the past few years, his job performance rating is slipping, according to a poll by Mervin Field. The poll, taken in early May, showed that as many people thought he was doing a poor job as thought he was doing a good job: 18 percent. In February 1978, his good rating was 26 percent to a poor rating of 21 percent. Those who felt he was doing a fair job slipped from 44 percent to 33 percent while the "no opinion" segment rose from 10 percent to 31 percent.

Image problems

But he has unquestionably developed image problems recently, and one of the first to recognize and exploit this was Hayakawa's Senate colleague, Democrat Alan Cranston. At best, Cranston and Hayakawa have had a very tenuous relationship, with each occasionally trying to show up the other. Shortly after the White House incident, Cranston was asked at a routine press briefing whether he had seen Hayakawa sleeping during the meeting. Cranston, who can dodge questions the way Muhammad Ali could slip a right cross, said no, he had not seen Dr. Sam sleeping then. But he did take a nap when the president briefed a group of senators on the Strategic Arms Limitation Treaty, Cranston charitably volunteered. "The meeting lasted over an hour," Cranston told reporters. "Hayakawa had his eyes closed and head nodding for several substantial periods of time. Others who were present alleged that he was snoring."

Hayakawa offered only a mild rebuttal. "Different people see different things depending on what they're looking for," he remarked. "All I know is I learned enough at each of these meetings to continue with my own thought process on the matters."

"No I wasn't asleep. I was awfully bored. I may have closed my eyes, but not more than two minutes at a time. There were times when my attention wandered considerably. I don't believe I was asleep."

Was Hayakawa verging on senility, unable to stay awake and speak coherently at key moments? That question lingered in the minds of reporters and rattled around the senator's office for a while. In response, Hayakawa produced a statement from Dr. Freeman H. Carey, the Senate's attending physician, who said the senator "has received routine health maintenance in this office since he has been a member of the Senate. His overall health is excellent for a person of his age."

If Cranston was aiming for Hayakawa, it may have been partly because the California Republican had gone out of his way to find someone to run against Cranston next year. That Hayakawa should be helping to unseat Cranston is less than startling. But making such a public display of his efforts was not the kind of sporting thing that incumbent senators have come to expect from their seatmates.

To be sure, none of the four that Hayakawa was talking to

inspired much fear in Cranston — Dr. Edward Teller, who helped create the H-bomb; Dr. Glenn S. Dumke, chancellor of the state college system; Dr. Arthur Laffer, chief theoretician of the Roth-Kemp tax plan; and Dr. Edward Sowell of UCLA. Cranston's only response to the missionary work was that he doubted he would have as much trouble finding someone to run against Hayakawa next time.

There are clear signs that Hayakawa knows there is a new ballgame in town. Rather than relying on his image as a Senate gadfly or conservative pamphleteer, the senator has been working to present himself as a serious legislator and student of government. The first step was taken during the August congressional recess. Instead of jetting off on a government junket, Hayakawa spent most of the month in California attempting to mend some political fences. At the same time, he was sending out a bulky packet of material which sought to summarize all of his legislative accomplishments and to outline every public position he has taken.

The boredom threshold

Most of his major accomplishments have been in the field he feels most comfortable with — foreign affairs. He helped get a resolution adopted in the Senate calling for a team of impartial observers to monitor the Rhodesian elections last spring, only to see it die in the House. He was instrumental in extending educational-assistance support programs to Indochinese refugees, a subject which has commanded his increasing attention. More recently, he called on the Carter Administration to take a more aggressive posture in coming to the aid of the boat people stranded in the Pacific.

But on domestic matters, the senator's imprint has been minimal. In part, it is because his chief emphasis is on foreign affairs and in part because he is fighting essentially a rear-guard action, trying to roll back programs that have come to be accepted by many others as essential functions of government.

Equally important, though, is that Hayakawa has an admittedly low threshold of boredom. It takes a special personality to conceive of ideas and then attend to the myriad of small details seeing them enacted. Hayakawa has no shortage of concepts and ideas, but he has neither the temperament nor the energy to pursue them.

He favors total price deregulation of oil and gas supplies, but wants to put a cap on food stamp benefits. He wants a lower minimum wage for young workers, but pushes to increase federal subsidies for federal water projects.

Hayakawa believes that the press misinterpreted and misinterpreted what he was saying about gasoline prices. "I have been accused of being indifferent to the poor because I said the poor don't need gasoline," he said in a clarifying statement. "The genuinely poor don't need gas because most of them can't afford to own a car. Many do not have jobs and few of those employed drive to work. They are a very small part of the gasoline problem in California. The comfortably rich will continue to buy gasoline, even if it goes up to \$5 a gallon."

If only the oil companies were allowed to charge the world cartel price, there would be plenty of energy to go around, he believes. Not only has he lined up with oil companies on price deregulation and on opposition to windfall profit taxes, but he supports their attempts to reduce California's clean air standards.

Relying on his close adviser, Dr. Teller, Hayakawa has staunchly backed the nuclear industry following the accident at Three Mile Island. He blamed news media "scare tactics" for stirring up public concern about the incident and labeled the temporary shutdown of the Rancho Seco plant near Sacramento as "absurd."

He's also lined up with the big soft drink distributors in their continuing efforts to win congressional sanctions of

territorial markets which otherwise might be in violation of federal anti-trust laws.

Nor has Hayakawa forgotten his California agribusiness friends. Sitting on the Agriculture Committee has helped, as Hayakawa has consistently supported legislation beneficial to their interests while lashing out at farm unions and Cesar Chavez and supporting a return of the bracero program. He also introduced the "Family Farm Liberation Act," which purported to preserve the family farm but was really an effort to maintain the status quo of big farms receiving big water subsidies.

A rare reversal

Hayakawa has taken a deep interest in matters involving many of California's minority groups — though not always to their liking. He wants to do away with bilingual ballots as well as bilingual education, saying that he fears a two-track educational system in California could lead to formation of a Mexican separatist movement.

His most bitter disputes have been with members of his own race. For years members of the Japanese-American community have chafed at the treatment they received during World War II when 110,000 of them had their property confiscated and were dropped into internment camps. At one point, the Japanese-American Citizens League was demanding reparations of \$25,000 per person, or something over \$1 billion. After dropping that demand, the JAACL attacked Hayakawa, who did not share the group's outrage over the wartime treatment. In fact Hayakawa, who was in the Midwest during the war and consequently escaped internment, has often defended the camps, saying they helped Japanese escape "ghettoes" and assimilate into a white-man's society.

But in August, Hayakawa reversed himself, one of the rare times he has done so since entering the Senate. He and two other Japanese-American senators, Democrats Daniel K. Inouye and Spark Matsunaga of Hawaii, introduced legislation calling for creation of a presidential commission to determine whether any wrongs were committed to those

imprisoned under Executive Order 9066.

If Hayakawa succeeds in getting the measure passed, it will be one of his few legislative achievements. He has yet to have a major piece of legislation bearing his name become law. Instead, he has contented himself with adding amendments to various bills, which often have wound up on the cutting room floor by the time the House finished with them.

That situation could become worse for Hayakawa. Ever since he took a seat on the Foreign Relations Committee last January (amid speculation that he traded it for his vote on the Panama Canal treaty), Hayakawa increasingly has immersed himself in foreign policy. It is his number one love. But such a forum is a difficult one to use in reaching constituents more concerned with inflation and recession than with the latest upheaval in Afghanistan.

Hayakawa immediately became the ranking Republican on the African affairs subcommittee, and he has attempted to influence U.S. policy toward a continent that long has stirred his curiosity. His views are not in accord with most black Americans, who see Africa as a collection of emerging nations throwing off the last vestige of white colonial rule. For Hayakawa, who has been an ardent supporter of Ian Smith's white-dominated rule in Rhodesia, change is coming too swiftly in Africa.

He is primarily concerned with black Marxists taking over the continent, and he repeatedly has sounded the alarm that Russia and other Communist nations are trying to use Africa as a staging ground for revolution. He applauded the removal of Andrew Young as United Nations ambassador, saying such a post should "represent all Americans white and black, not just the radical fringe of black power activists."

"I believe — as far as foreign affairs are concerned — that we are in terrible, terrible difficulties for a long time ahead," he said earlier this year. "The world perceives the United States as unwilling to act. That is, they saw the United States stand back and do nothing while the Communists took over Angola, Ethiopia, Somalia — penetrated to all the Central African nations. They saw us kowtow to Communist China and give up Taiwan, without even pressure to do so. The world has seen us collapse so far as our policy options were as regards Iran. We're in real danger everywhere."

A hard-line view

That hard-line view of the world is reflected in Hayakawa's position on the SALT II agreement. He sat on the Foreign Affairs Committee while it conducted a month of hearings on the treaty. But unlike his position on the Panama Canal treaty, when he committed himself early and then later said he might reverse himself, Hayakawa is undecided about SALT II — although leaning toward opposition.

While Cranston, an ardent supporter of the pact, says it is needed to slow the world's deadly arms race, Hayakawa maintains that the administration has not exacted enough concessions from the Soviets, a position taken by former Secretary of State Henry Kissinger. This so-called linkage issue is one that has greatly stirred the nation's conservatives and Hayakawa is squarely in their camp.

"We're supposed to think about the SALT treaty all by itself, independent of what the Soviet Union does in other respects. But can you separate these things in your mind? There are many of us in the Republican Party and quite a few in the Democratic Party who are determined to fight (the treaty) and to introduce amendments to it," he says.

Whether they will have enough votes to block the treaty is unclear at this point. But in the end, for Hayakawa, it may not matter. A far larger number of Californians are more interested in the price of gasoline than in SALT II. And it's a lot easier to understand.

The ideal way to store your Journals

Sturdy and attractive Journal binders are now available for immediate shipment. These binders are made from the finest quality buckram and are stamped with gold-foil letters. They are available for the years 1970 through 1980 (except 1977, which is temporarily out of stock) and each binder contains enough space for a full year of magazines plus the annual index.

The price for each binder is \$7.42, including sales tax. Shipping and handling are free only on prepaid, Visa and Master Charge orders. (Annual indexes are \$2.50 each.)

Send your binder orders to the California Journal Press, 1617 10th St., Sacramento, 95814.

Brown's New England mission: Convince voters he can be trusted

By ED SALZMAN

Jerry Brown has a three-issue campaign to capture delegates in the New Hampshire presidential primary next February — heating oil, heating oil and heating oil. That tells a great deal about the kind of message the governor will be carrying to the East, where he has been victimized by media portrayals of him as a crass opportunist who cannot be trusted in the White House. Brown need not convince voters in New Hampshire and Massachusetts that he is the *wunderkind* of the West — only that he is an acceptable alternative to Jimmy Carter.

The Brown campaign in New Hampshire is based on the assumption that almost no one wants to vote for Jimmy Carter, who is viewed generally as a decent man but unable to cope with the nation's problems. The New Hampshire election will be held in the dead of the New England winter, when the furnaces of all homes will be going full blast. Carter has made every effort to make sure that the Northeast gets enough fuel. (In fact, New Hampshire is being shipped so much gasoline these days that some stations stay open late at night to get rid of their supplies.) But there is nothing Carter can do about the price, which will be about double the 49 cents a gallon paid at the end of the heating season last winter. Firewood, which is plentiful in New Hampshire, has also doubled in price.

Brown, better than any other presidential contender, knows how to exploit proposals for alternative sources of energy — his so-called "woodchips and windmills" package. And he can point to California, where an adequate supply of energy has been maintained without resorting heavily to the use of nuclear power, which is a major issue in New Hampshire. Above all, Brown is emphasizing that he has struck a near-ideal balance in California between protection of the environment and production of new jobs. (The campaign keeps stressing that since Brown became governor, 25 percent of the new jobs created in the country have been in California.)

By talking energy, Brown reinforces the notion that Carter is a bumbler on the major problems that confront Americans — inflation, employment and energy supplies. These issues are especially potent in the Northeast, where economic conditions are not nearly as healthy as they are in California and the rest of the Sun Belt. And Brown can out-talk almost anyone on alternative power sources.

Negative factors

But that doesn't solve his bigger problem: How can Brown convince the show-me folks in the hills of New Hampshire that he is something other than a kooky opportunist as he has been portrayed by major elements of the national media? How can Brown tell voters that he can be trusted with the presidency?

Gray Davis, Brown's chief of staff, theorizes that the negative image has been produced by two factors:

- **The assumption that Brown had** some choice other than to make Proposition 13 work once it was approved by the voters. Brown opposed 13, but then he sounded almost



like a sponsor when it became apparent that the Jarvis-Gann forces would win. According to Davis, the governor had only one choice other than to do the best he could to carry out the mandate of the people — to resign from office.

- **The belief that because** Brown doesn't fit into a neat pigeonhole, he is unpredictable — a quality that makes people nervous about him. At one time, Brown viewed unpredictability as an asset because it kept folks guessing what he would do next — until he saw that it was making voters worry about whether he could be trusted to keep his word. Now, the party line out of the Brown campaign is that the governor has been predictable to anyone familiar with Brown's central themes.

Thus, the voters in Ted Kennedy country are going to be told repeatedly about the four main themes that mark the Jerry Brown record as governor and would mark his domestic policies in the White House:

- **Affirmative action.** Brown has appointed a record number of minorities and women to high government posts. More than half the delegates to the Democratic national convention next summer will be minorities and women.

- **A progressive labor policy.** The governor is pointing to his support for collective bargaining for public employees and his role in forming the Agricultural Labor Relations Board. Massachusetts is a strong labor state.

- **Protection of the environment.** He is opposed to Carter on nuclear power, and California's efforts to protect the coastal zone should have appeal in New Hampshire and Massachusetts.

- **Budgetary frugality.** This is the issue that has caused Brown a great deal of difficulty with the liberals in

the Democratic Party, especially in New England. But it has appeal to rank-and-file voters, especially in Massachusetts, where property taxes are among the highest in the nation.

The ghost candidate

In New Hampshire and Massachusetts especially and in the rest of the nation generally, Brown must campaign not only against Jimmy Carter but against the ghost candidate, Ted Kennedy. Yet Kennedy's failure to make it clear whether or not he will run helps Brown. This is because those who want Kennedy as the nominee view Carter as the main opposition, and they could vote for Brown as a way of knocking the president out of the race. Perhaps more importantly, the potential of a Kennedy candidacy is keeping other contenders out of the race. How much chance would Brown have if the field also contained, for example, Senators George McGovern, Gary Hart and Daniel Moynihan?

There is a major effort under way to get voters in New Hampshire to cast write-in votes for Kennedy. Brown thinks the voters of New Hampshire take their role as the ice-breaker seriously and want to choose between candidates who are actively campaigning in the state, meeting the electorate.

In these early primaries, what counts is how well each candidate does compared to the advance expectations developed by the media. In the case of the first two primaries, Brown will not be expected to win. The media attacks on Brown have lowered expectations, and that's good for him. If Brown should even come close to Carter, it will be viewed as a major victory for the Californian. The Brown campaign is not ignoring Massachusetts, where the primary comes the week after the New Hampshire opener. Brown will not be expected to do much of anything in Kennedy's home state, especially if Senator Paul Tsongas runs as a stand-in for his senior senator. A substantial Brown vote would be a major surprise and would send shock waves across the nation. In order to accomplish that goal, the campaign will have to spend a great deal of money on a media blitz in the Bay State.

Key fund-raisers

That is one explanation for the makeup of the top command of the Brown campaign — heavy with fund-raisers. Among the key personnel: Richard Silberman, former state director of finance, fund raising; Tom Quinn, former chairman of the Air Resources Board, organization and media; Richard Maulin, former chairman of the state Energy Commission, fund raising and research; Byron Giorgio, former attorney with the state Agricultural Labor Relations Board, New England coordinator with headquarters in New Hampshire; Mike Fernandez, former aide to Congressman Mo Udall, scheduling; Everson Esters, former executive with the Democratic National Committee, minority relations; Tony Dougherty, former legislative secretary to Brown, fund raising.

Gray Davis, who took a leave of absence to direct Brown's re-election campaign last year, is staying on the state payroll during the presidential primaries. But he will moonlight on the campaign, working on media with Quinn and coordinating Brown's governmental and political activities. Davis will also have the job of coping with Republican Lieutenant Governor Mike Curb while Brown is out of state. The Brown plan is to leave no decisions on major appointments or the signing of bills up to Curb.

How much has Brown's conflict with the Legislature hurt his presidential campaign? It probably didn't hurt at all, and it may have helped a great deal. The only story out of the Legislature to get national attention was the rejection of

Jane Fonda as a member of the state Arts Council. Did that hurt? The answer from Davis: "Do you see any attacks from the left any more?"

This does not mean that Brown is seeking more combat with the Legislature as a means of promoting his presidential campaign. He has been meeting with lawmakers in an effort to improve his record in the 1979-80 session. The governor feels that a good showing in the presidential primaries will raise his stock in Sacramento, just as it did in 1976, when the administration harvested its best crop of legislation.

What will happen in Sacramento if Brown does poorly in the Eastern primaries, a probability should the Ted Kennedy write-in and stand-in campaigns catch fire? Would he



return to Sacramento as a critically wounded lame duck? Would the Legislature's carnivorous scavengers delight in shredding the governor's political remains?

California's other two presidential possibilities — Republicans Ronald Reagan and Gerald Ford — have no such problem because they have no public offices to defend after the presidential warfare is over. And they have strategies far different from Brown's. Ford's, in fact, is hardly a strategy at all. He is sitting back hoping that the party will come to him after Reagan and the other active candidates have finished each other off.

Reagan, too, has been playing it cool, sitting on his lead, accumulating money (both for himself and his campaign) and waiting to make a big splash at the opportune moment. Reagan has one major problem — his age. If he were only a few years younger, he would probably get the Republican nomination almost by acclamation. But the fact that he would be 70 years old shortly after inauguration has led some Republican leaders to question whether he could defeat the Democratic nominee.

In the mainstream

It is clear that the Reagan campaign is solidly in the hands of John Sears III, who managed the former governor's 1976 campaign. The resignation of Lyn Nofziger, long-time Reagan aide, from the campaign, left no one in the campaign organization to challenge Sears. In early 1979, the Reagan effort was to emphasize that Reagan is in the mainstream of American politics — something he displayed as governor of California for eight years. This strategy makes good sense if it is assumed that most conservatives are already in line

behind Reagan and that Reagan must be made acceptable to political moderates, first in the GOP and then among independents and Democrats.

Reagan has probably been hurt by the elimination of the winner-take-all primaries in all states but California, where it has become a major political issue. This has encouraged other candidates to enter the early primaries in search of delegate beachheads. By far the most aggressive anti-Reagan campaign has been waged by former Texas Governor John Connally, the former LBJ Democrat who became a Nixon Republican. Connally has even won over several former Reagan associates in California, including oilman Henry Salvatori. Connally's major problem is that he has very high name identification in the polls — but more of it is negative than positive. The conventional wisdom is that Connally cannot win the Republican nomination, because the public still connects him with Watergate and Nixon, but that he can soften Reagan for another candidate, perhaps Senator Howard Baker or George Bush or John Anderson.

But the Connally campaign may actually be helping Reagan — if it is assumed that Connally can't win. By siphoning

dollars, supporters and media attention away from the other candidates, Connally may be making it difficult for any of the so-called moderates to mount a first-class campaign. In that case, Reagan would be able to maintain his position as front-runner all the way to the convention floor in Detroit next July.

Clawing up, sitting tight

Reagan and Brown are going after the presidency — and the right to face each other, they hope — from exactly opposite directions. Reagan is sitting smugly on top of the pack, hoping he can keep things cool and win the nomination taken from him only by the power of presidential incumbency in 1976. Brown is clawing up at Carter from the pit, all the while keeping an eye out for the possibility that a fatal blow to his aspirations will be struck by Ted Kennedy. But both Reagan and Brown will be trying to get across the same message to the voters of New Hampshire — that each will do a better job than Jimmy Carter or anyone else of keeping the voters of New Hampshire physically warm and economically cozy in winters to come.



Inflation-free holiday shopping from the

California Journal Press

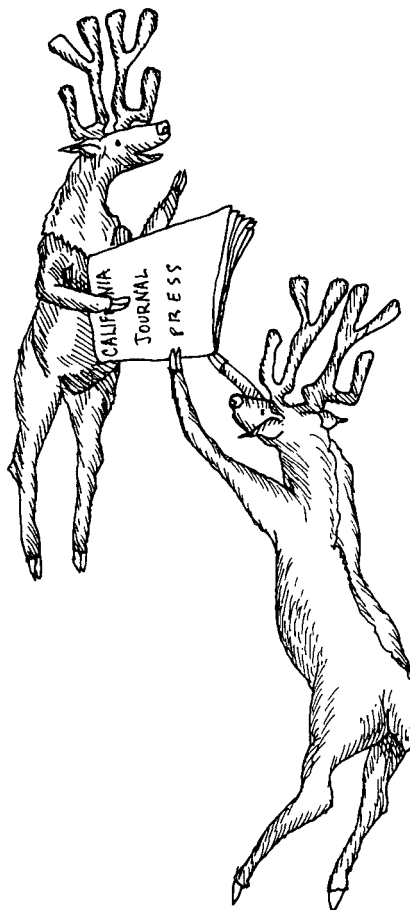
We're doing our part to reduce inflation. Prices of **California Journal** books have not been raised in the past two years. Take, for example, the **California Journal Almanac of State Government and Politics**. The 1979-80 edition is being sold at the same price as the last edition, **\$4.19** a copy, including tax.

The **Almanac** is the handy reference book that tells you at a glance almost anything you would want to know about current California politicians, the state's population, election results and even elected officials in other states. It belongs on the desk of anyone who is dealing with state government or who has an interest in state government and politics — and that means virtually every **Journal** reader.

Other inflation fighters

A great gift that entertains as it informs: **The Cartoon History of California Politics**, by Ed Salzman and Ann Leigh Brown, a 156-page book containing more than 100 drawings illustrating California's fascinating political history. Price: **\$5.25**.

A look at the inner workings of



California government: **California Public Administration**, by T. Anthony Quinn and Ed Salzman, describes how decisions are made in all branches of government. Price: **\$5.25**.

The Whole Brown Catalog: **Jerry Brown: High Priest and Low Politician**, by Ed Salzman, with cartoons and photos. Price **\$3.13**.

An indictment of the industry that helped Brown hide the 1974 gubernatorial campaign: **Phantom Politics: Campaigning in California**, by Mary Ellen Leary, a 191-page paperback book describing media coverage of California politics. Price: **\$6.31**.

A thoughtful analysis of contemporary problems in the press: **Reporting: An Inside View**, by Lou Cannon, a 320-page book by the **Journal's** long-time Washington columnist. Hardback, **\$10.55**; softbound, **\$5.25**.

Use the handy card in this magazine to place orders. Or just write your own order and send it with payment (Visa and Master Charge numbers accepted) to **California Journal Press**, 1617 10th St., Sacramento 95814. (All prices include tax.)

What the probe revealed about...

The decline of California's vendetta-ridden Supreme Court

By K. CONNIE KANG

An atmosphere of tragedy pervades the California Supreme Court these days, in the wake of the extraordinary investigation of the court for alleged wrongdoing. As the seven justices wait for their jury to return — and it could be a long wait — they are keenly aware that nothing at the court will ever be quite the same again.

The investigation by the Commission on Judicial Performance into the conduct of the state's highest court has been an agonizing experience for all of the justices. And the probe — the first one of its kind in the nation — has shaken the very foundations of the California judiciary, with reverberations being felt nationally.

It's too soon to draw conclusions, of course. But this much appears certain: The image of the California Supreme Court, which for so long was considered the nation's premier state high court, has been seriously damaged.

"What has come through is that personal vendettas and satisfaction of those vendettas have brought the court to this low position, and that's a tragedy," observes a high-ranking state official who has frequently appeared before the court and the U.S. Supreme Court.

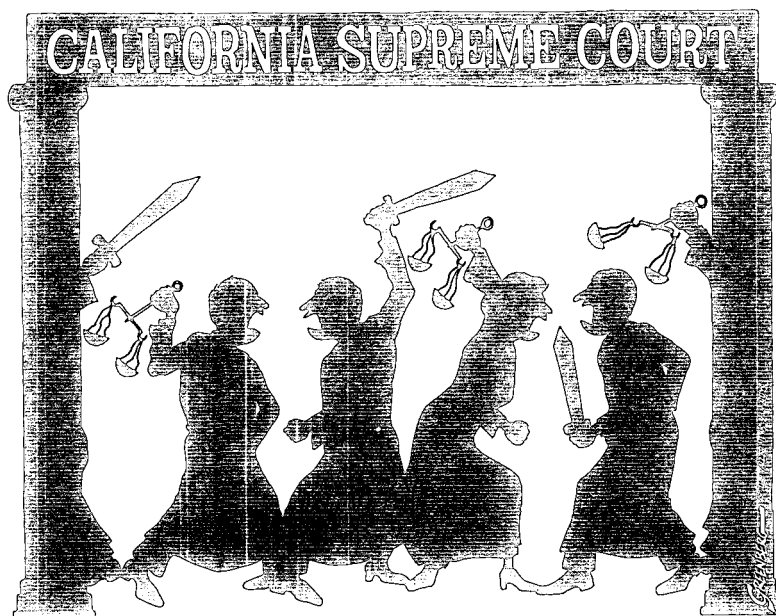
"In a sense, the justices have come down from Olympian heights to mingle with mere mortals, and through these hearings we have discovered their human qualities and frailties."

Public realization that Supreme Court justices are "just people" may have the effect of undermining their authority, and may have the same effect on the state judiciary that Watergate had on the presidency. Will the court emerge from this investigation with its full powers intact? Probably not. Will that encourage the Legislature and the executive branch to second-guess the court and to attack unpopular court decisions? Probably.

A public invitation

The public investigation was born amid controversy. Reacting to newspaper allegations that the court had held up politically sensitive cases until after last November's election (in which she was a candidate for retention along with three associate justices), Chief Justice Rose Elizabeth Bird publicly invited the commission to conduct an "impartial" inquiry "to restore public confidence in the judiciary, which has been damaged by false accusations."

For nearly five weeks, June through July, Californians saw and heard detailed accounts of how their top judges went about their business, and what they discussed with each other and with their staff. The hearings, conducted at



Cartoon by Steven Greenberg. The Valley News. 1979

Golden Gate University auditorium in downtown San Francisco, were televised and extensively reported.

Private memos between justices — some attacking each other, criticizing each other's work, even accusing each other of lying — were disclosed and admitted as evidence in the proceeding entitled, "In the Matter of Commission Proceedings Concerning the Seven Justices of the Supreme Court of California — C.J.P. No. 3012."

Witnesses testified that Bird and the court's senior justice, Mathew O. Tobriner, had an aide sit in on their conversations with Justice William P. Clark Jr. to take notes, because they didn't quite trust Clark.

The depth of the divisiveness within the court and tension among some members became more clear as the hearings progressed. The hearings have revealed what had long been suspected, that:

- **Chief Justice Bird** does not get along with Clark or Justice Stanley Mosk, and their relationships have been strained and cool.

- **The close personal relationship** Tobriner and Mosk enjoyed from their long past association on the bench has all but disappeared because of Tobriner's unwavering loyalty to the chief justice.

- **There are six camps** at the court: Bird, 42, and Tobriner, 75, in one, and the remaining five — Mosk, 67, Clark, 47, Frank K. Richardson, 65, Wiley W. Manuel, 52,

K. Connie Kang covers the Supreme Court for the San Francisco Examiner.

The cloak of secrecy

Rule 902.5 — the subject of litigation between Justice Stanley Mosk and the Commission on Judicial Performance — was adopted by the state Judicial Council last winter. It mandated that the commission hold its hearings in public. In fact, the rule told the commission to do just about everything but deliberate in the open.

Mosk, the only member of the high court to institute a legal action to fight the rule, was in Israel last December and January when the Judicial Council debated the issue.

Upon his return, Mosk wrote the commission and complained. He said that he was disturbed about the rule and that he believed it violated the state constitution holding that commission investigations must be conducted in private. He also objected to the council resolution which stated that there was no opposition to the investigation of the court.

Bottom of the list

"The inquiry was requested by one member of the Supreme Court, not by the court," Mosk told commission chairman Bertram Janes in a letter. "No prior approval of the court was sought and I doubt that it would have been forthcoming."

Mosk's plan to challenge the open-hearing rule was known to the commission long before the hearings began. In fact, as the commission was getting ready, its special counsel and attorneys for Mosk reached an understanding. Seth Hufstedler thought it might not be necessary to call Mosk to testify, thereby averting the litigation. Hufstedler placed Mosk's name at the bottom of the witness list, apparently thinking that by then all of the testimony would be in, and what Mosk had to say might not be crucial.

The commission plan changed, however, when Justice William Clark testified that Mosk had told him that he (Mosk) had accused Tobriner before the November 7th election of holding up the cases. This startling testimony from Clark made it essential to hear from Mosk. At that point, Mosk sued, losing in Superior Court but winning before the Second District Court of Appeal.

At the American Bar Association Convention in Dallas in August, Mosk blasted the public hearings as a "media event that replaced day-time soap operas."

The 16-year veteran of the court and former attorney general told the gathering, "The press reveled with prurient interest in every juicy morsel relating to internal

court personality conflict."

Then Mosk took a swipe at the commission, accusing it of "pandering to an assaultive press," and criticized Chief Justice Rose Bird, without mentioning her by name, for requesting the investigation.

"Judges cannot invite non-judicial agencies to investigate themselves and still retain the freedom of conscience, independence and courage implicit in the decision-making process," he said. "The roast pig they may get will not be worthy of the house burned down."

There are many knowledgeable court observers who share Mosk's view that the hearings have been damaging to the court as an institution.

"We must combat an imperial judiciary, but we need an independent judiciary to avoid the even greater dangers of an imperial executive and an imperial legislature," says Laurence Tribe, a Harvard law professor and former law clerk to Justice Mathew Tobriner. "Great damage to these principles has already been done in California."

Perhaps Mosk, Tribe and other critics should direct their concerns to those judicial council members who were responsible for the open-hearing rule. The Commission on Judicial Performance did not ask to conduct the investigation in the open; that decision was made by the Judicial Council.

What has to be remembered also is that the inquiry has been extraordinary from the start. It was requested by Chief Justice Bird in a public letter to commission chairman Bertram Janes. From then on, there have been surprises at every turn — and many first-time legal questions which some of the state's best legal minds haven't been able to resolve.

The rule opening the investigation was made after the commission asked the Judicial Council only for permission to file a comprehensive public report at the conclusion of its investigation. Under the rules then in existence, the commission could file only a brief report.

Instead of giving the commission what it asked for, the Judicial Council, following heated debates during two sessions, gave the commission Rule 902.5 and ordered the entire proceedings be held in public and in the presence of television cameras.

It was this rule that has been declared unconstitutional by an appeals court and which is now the issue before the special Supreme Court.

K.C.K.

and Frank C. Newman, 62 — each in his own camp.

- **Richardson and Manuel**, either by choice or perhaps because of their personalities, have not assumed the peacemaker role as tensions mounted between Bird and Tobriner on one side, and Mosk and Clark on the other.

- **Newman, the court's** newest member, is an enigma — a free spirit, who is still very much the law professor he used to be and is off doing his own thing.

Expected responses

In testimony on the underlying question — whether any justice deliberately delayed cases for filing until after the November 7th election — the witnesses have said what was expected of them.

Bird and Tobriner testified that the cases were handled routinely, while Clark said the *Tanner* and *Fox* cases took "unusually" long. Richardson stated that, to the best of his

knowledge, he has no reason to believe that *Tanner* or any other case under investigation was handled improperly. The impression Richardson left was one of extreme caution — of a man determined to see no evil, hear no evil and speak no evil.

The evidence to date — filling 22 volumes of testimony — appears neither to prove the justices guilty of wrongdoing nor put to rest suspicions about the handling of *Tanner*. The strongest piece of evidence was offered by Clark when he said that Mosk told him that he (Mosk) had accused Tobriner of holding up cases before the election, and that he (Tobriner) would "pay the consequences" if this were revealed. It was Clark's testimony that set the stage for Mosk's challenge of the open-hearing rule — and led the court and commission into a hopelessly tangled legal thicket. (See box.)

The hearings were disrupted on July 17th by Mosk's court challenge. By then, four justices had completed their tes-

timony in public and a fifth, Manuel, had given one day of testimony. Mosk and Newman had not testified at all in public. Mosk contends that the public nature of the proceeding is unconstitutional, and that the commission cannot compel him to testify in public. The Second District Court of Appeal agreed with him, and the commission has appealed that ruling.

Ironically, drawn-out litigation over procedure, rather than issues of substance, has made it virtually impossible for the commission to conclude its inquiry. With 90 percent of the evidence obtained in the open, and the remainder in closed sessions, the commission now must wait for a determination from a substitute Supreme Court on whether it can reopen proceedings to the public.

A 'procedural quagmire'

Since mid-July, the panel has been drawn into an "interminable procedural quagmire," as one commissioner put it. The lengthy appeal, combined with Justice Newman's refusal to disqualify himself from the substitute Supreme Court, prompted two commission members — Kathryn Gehrels and Hillel Chodos — to step down from the case. Gehrels, a 70-year-old San Francisco attorney, resigned from the commission entirely, while Chodos, 45, a Beverly Hills attorney, remains on the commission but has disqualified himself from the case.

Chodos' decision underscored the frustrating flurry of procedural skirmishes. "The commission has already spent more than five weeks in fruitless efforts to obtain a prompt, impartial and final decision on the merits of an alleged constitutional question raised by Justice Mosk, which is itself procedural, rather than substantive," Chodos declared in a letter to commission chairman Bertram Janes. "It has been prevented from doing so by an apparently endless succession of procedural technicalities and delays totally unrelated even to the merits of Justice Mosk's procedural objection." Therefore, Chodos said, the commission is unable to complete its constitutional duty to investigate and deal with allegations of judicial misconduct. And, he said, he could not "in conscience" continue to participate in the probe.

Until the pro tem court (made up of six Courts of Appeal justices and Newman) rules, the state's legal machinery appears to have come to a grinding halt in the face of the unprecedented controversy.

How the special tribunal resolves the open-versus-closed hearing issue will be crucial. Since so much of the investigation has already been conducted in the open, it would make the commission's task less difficult if it were allowed to conclude its work in the open. Furthermore, it would seem that public acceptance of the commission's conclusions would almost require that proceedings be completed in public.

Whatever the outcome — whether it will be to exonerate all the justices or initiate charges against one or more of them — the California Supreme Court has suffered a blow from which it is not likely to recover quickly. The investigation and the accompanying revelations of the court's internal problems and divisions may further undermine the embattled chief justice's ability to lead the court. Bird, who suffers from cancer, has been walking with a cane for several weeks.

Carpets and elevators

Veteran court observers are convinced that the petty squabbles exposed during the public hearings can do as much damage to the court's public image as any charges of misconduct, proved or disproved. There was Justice Clark, for example, detailing some slights he believed he and his staff suffered from Bird and her staff. His secretary, Bessie Wong, was to have received a piece of old carpet from Bird's office when the chief justice remodeled. Instead, the carpet

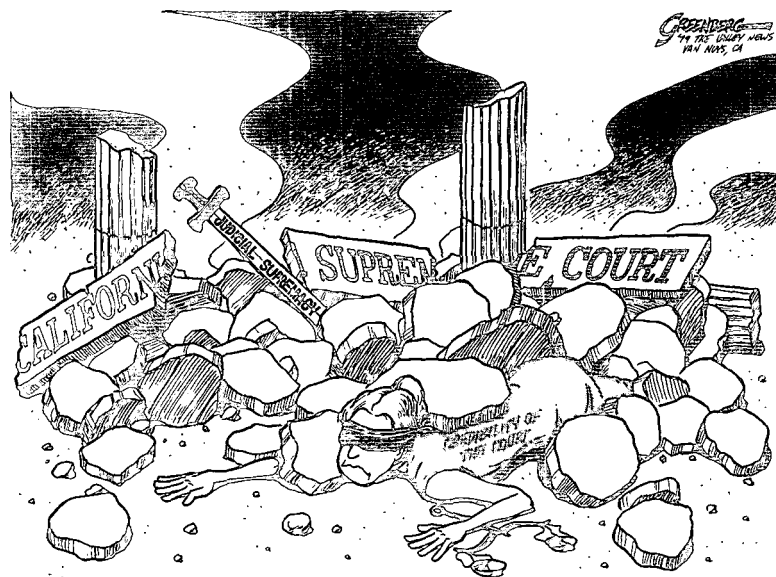
went to someone else, and Wong was stuck with her old linoleum, he said. "She (Wong) came in and said, 'What have you done to the chief justice?'" Clark said. "My carpeting has been given to others." Another time, his research attorney, Richard Morris, got on the elevator with Bird and said "Good morning," and she looked the other way, Clark said. "It may seem petty now, but it seemed awfully important to us at the time."

Bird acknowledged that she refused to talk to Clark and his staff last summer and gave them the silent treatment — "cool but correct" — because she had been annoyed with Clark. She said he had personally embarrassed her with a footnote, which later was moved to the body of one of his opinions, and with remarks he made at judges' gatherings.

Then there was a memo, dated March 16th, 1978, in which Bird criticized Justice Newman, her former law professor at Boalt Hall, for his opinion in the case of *Fox v. City of Los Angeles*. (The decision held it unconstitutional for the city to light windows to form a cross in observance of Christmas and Easter.) "... The opinion does not set forth clear standards to be followed in these types of cases," Bird wrote. "This is especially critical when this court departs from a stand developed by the United States Supreme Court." Bird went on to say that Newman was basing his ruling on the state constitution, but he failed to state an understandable standard for the guidance of governmental agencies in California.

"There is no clear statement phrased in terms of conduct that outlines what is and is not proscribed," she told Newman. "In fact, there is no clear holding at all except that the trial court is affirmed." She told Newman she was sorry but was sending the opinion back to him because she could not sign it with the issues "left dangling."

While Bird waited for Newman to change his opinion, she tried another tactic. She asked Tobriner to hold a box containing the *Fox* decision longer than the 45-day period allowed under the court's internal rules. She said Tobriner was not working on an opinion during the 86 days he held the material, but she was. She did this to exert pressure on



USE A GUN, GO TO PIECES

Newman. She said Tobriner, as the court's senior justice, had "greater influence" with Newman than she did. Thus, she had hoped the presence of the box in Tobriner's chambers, rather than in her office, would convey the message to Newman that Tobriner, too, was dissatisfied with Newman's opinion. Newman, despite Bird's efforts, did not make changes in his majority opinion in *Fox*. Bird ended up

writing a separate concurring opinion to address the issues that Newman hadn't, which she began circulating on October 3rd, one year after the court heard oral arguments on the case.

'McCarthy mentality'

The chief justice said that by last October that there was an air of suspicion and distrust — "McCarthy type of mentality" — at the court, in the aftermath of news stories in which then-Attorney General Evelle Younger, who was running for governor, had accused the court of sitting on politically sensitive cases. At an October 25th conference of the justices, Clark inquired about the status of *Tanner* and Mosk asked about the *Fox* case. Bird said Mosk was "agitated" that the court wasn't moving quickly with the *Fox* case. She said she got the impression that Mosk felt it was a "reflection" of her "poor management" of the court that the case wasn't moving quickly. The chief justice said that Mosk commented on *Fox*, that it was not a "good management practice" to file a decision that would "kill Santa Claus just before Christmas." The chief justice said she noted somewhat sarcastically during this conference that she thought it was "strange" that the only two cases the newspapers were raising questions about involved a "particular judge" (Clark) who wrote a dissenting opinion in both of them. She told the justices that the *Fox* case was not going to be filed on "Christmas Eve, Christmas Day, New Year's Eve or New Year's Day, or at Easter," but that it would be filed "when it was ready to be filed."

The five justices who testified publicly were questioned not only by the commission's prestigious special counsel, Seth M. Hufstedler, but also by members of the commission.

This exchange took place between Chodos and Tobriner,

as the justice insisted that he did not connect the *Tanner* case with the November election.

CHODOS: "What I am having difficulty with is your statement that throughout the period up to November 6th, in spite of news articles, media blitz coverage, with conference in session in mid-October, you tell us you were totally oblivious of any connection between *Tanner* and the chief justice's confirmation campaign? That's what is giving me difficulty."

TOBRINER: "I didn't say I was totally oblivious. I said I didn't think it had any particular political significance because I didn't think *Tanner* was that important or that anybody would read it or find out about it or get into it because, to me, it was not a major case."

Or, this exchange between Bird and Hufstedler, when the special counsel was trying to pursue the chief justice's previous testimony that she had some information on news leaks.

HUFSTEDLER: "Have any members of your staff delivered to you any documents bearing upon the possible sources of leaks of confidential information from your court which you have not delivered to me?"

BIRD: "I have no comment."

HUFSTEDLER: "Well, I'd like to ask for an answer to that question."

BIRD: "I have no comment to that question."

HUFSTEDLER: "I'm not asking for comment, I'm asking for an answer."

The *Tanner* switch

Still another pointed exchange, this one between Chodos and Clark, on why the justice felt it necessary to make a reference to Bird's opinion in the *Caudillo* rape case in his

Wright's legacy

Things would be quite different at the California Supreme Court today if Donald R. Wright had done a few things differently.

If Wright had retired as chief justice in 1973 — his 20th year on the bench — as he had promised then-Governor Ronald Reagan, Associate Justice Frank K. Richardson, 65, not Rose Elizabeth Bird, 42, would be chief justice today.

And there would be one more conservative on the bench, because Reagan's choice to succeed conservative Louis Burke was Robert Kane, an appellate justice who recently resigned because of his unhappiness with the state of the judiciary.

Also, if Wright had stuck to his original plan and named Stanley Mosk as acting chief justice, instead of Mathew O. Tobriner, before his retirement in February 1977, Rose Bird would not have squeaked through the Commission on Judicial Appointments.

How this happened reveals a great deal about Donald Wright, the man. "He just didn't have the heart to tell Matt (Tobriner) he thought Mosk would make a better acting chief jus-

tice," according to friends.

After the court's Los Angeles calendar in January 1977, Wright announced from the bench that it would be his last court session as chief justice. Tobriner immediately began to give a glowing speech about Wright. Tobriner said he was speaking as the court's senior justice. By so asserting, Tobriner had, in effect, announced that he would be acting chief justice upon Wright's retirement. It has been customary for the senior justice to assume

this role, but, in this case, Wright had wanted Mosk because he believed Mosk was a more capable administrator.

After the Tobriner speech, however, Wright couldn't bring himself to bypass Tobriner. With Wright's impending departure and the retirement of Raymond Sullivan and Marshall McComb, the court was reduced to four justices — Tobriner, Mosk, Clark and Richardson.

Mosk and Clark discussed the possibility of trying to override Wright's decision by mustering a majority vote in favor of Mosk as acting chief justice. The Clark-Mosk plan failed when Richardson refused to go along. Thus, when Bird came before the Commission on Judicial Appointments in March 1977, the panel was composed of Tobriner as acting chief justice, Parker Wood, senior presiding justice of the Courts of Appeal, and Attorney General Evelle Younger.

Had either Wright or Mosk been sitting in Tobriner's spot, it is probably safe to assume that Bird, whose appointment was confirmed by a 2-1 vote, would not have made it. K.C.K.



dissent in *Tanner*. (The *Tanner* case was reheard, reargued and in June, just as the commission hearings were getting started, the court issued a second decision, this time upholding the "use-a-gun, go-to-prison" law. Clark emerged as the author of the majority opinion, joined by Richardson, Manuel and Mosk, who switched his vote.)

CHODOS: "And you knew that they were attacking the chief justice in the election on the theory that she was, to use a shorthand phrase, soft on crime and criminals?"

CLARK: "Yes."

CHODOS: "You understood that Caudillo was a case which gave them -- which was grist for their mill because it allowed them to suggest that the chief justice, unfairly perhaps, that the chief justice did not think rape amounted to great bodily injury?"

CLARK: "Certainly this all became very prominent in the following week (August 25th, 1978). But not on the date (August 15th, 1978) we or I determined that the cite should be placed in a footnote in our seven-page revision."

Defeating the goal

Such exchanges did little to "restore public confidence," the goal that Chief Justice Bird had set when she invited the inquiry. In fact, the opposite was occurring.

"The notion of a sacrosanct institution, a mystique known only to a few intimates and knowledgeable observers, is over," notes Bernard Witkin, one of the state's foremost legal commentators. "We're in an era of public scrutiny of every branch of government, and a hell of a lot of private enterprises. What appears from the public demonstration, it seems to me, is nothing in the way of real scandal. The idea of deliberate withholding of an opinion seems to be at best in the realm of equivocal misunderstanding and some contradictions by people looking at it differently."

Witkin says what worries him is not the court's internal squabbles, but the large backlog of cases which the court, for one reason or another, is not able to reduce. "The real need for inquiry is what are the reasons for the court's lack of capacity to keep up with its output," he says.

Professor Preble Stolz of University of California's Boalt Hall, who attended the public hearings faithfully, says work load at the court is a "very serious" problem. He thinks the court ought to expand its professional staff of research attorneys to meet the increasing load and introduce "modern technology" into writing, editing and circulation of opinions. Stolz and Witkin also believe the justices could save time by writing fewer dissenting and concurring opinions. "I think they are excessively self-indulgent about maintaining their own positions," Stolz observes.

Where does the court go from here? "I don't have any answers," says retired Chief Justice Donald R. Wright, Bird's immediate predecessor. "It just kills me to see the court in this light."

"What I fear most of all is that so many harsh words have been said against each other," a former Supreme Court justice says, "I wonder if they can ever pick up the pieces and go on."

San Francisco Superior Court Judge Harry Low, president of the California Judges Association, believes the court will get over this "ripple" and survive. "I prefer to look at the positive side," Low says. "This has been a kind of self-examining process for the court, which hopefully will result in certain improvements."

At the moment, there appears to be no one on the court who can assume leadership single-handedly and bring the court together. What it will take to diminish the internal damage would be for the justices to work at it collectively. Perhaps Richardson and Manuel, who have remained neutral in the court's internal wars, might assume more prominent roles in the future as mediators.

Significant Court Actions

Death-penalty restoration

After a lapse of a dozen years, the gas chamber at San Quentin prison may be activated again as a result of a state Supreme Court decision. In a surprising 5-2 ruling, the high court upheld the constitutionality of the California death-penalty law enacted by the 1977 Legislature over Governor Brown's veto. And the court indicated that it would probably uphold the 1978 initiative approved by the people last year to strengthen the law.

Ironically, the decision was handed down as *dictum*, or as an advisory opinion in a case in which all the justices agreed that the death sentence had been improperly imposed. The court reversed the murder conviction of Lavelle Frierson, a 22-year-old Los Angeles man sentenced to death under the 1977 law. The court found that Frierson had been inadequately represented by counsel.

Justice Frank K. Richardson wrote the lead opinion, joined by Justices William P. Clark Jr. and Wiley W. Manuel. They said they handed down the advisory ruling because the people are entitled to know whether the current death-penalty statutes are constitutional. "If the people and the Legislature are correct in their assumption that the death penalty acts as a deterrent, then it is possible that some persons contemplating the commission of capital crimes may be diverted by a clear and unqualified ruling upholding the constitutionality of the death penalty," wrote Richardson.

The most interesting concurring opinion was written by Justice Stanley Mosk, joined by Justice Frank C. Newman. In 1972 and 1976, Mosk joined a majority striking down the death penalty. Why had Mosk changed his mind? He explained: "The day will come when all mankind will deem killing to be immoral, whether committed by one individual or many individuals organized into a state. Unfortunately, morality appears to be a waning rule of conduct today, almost an endangered species . . . Thus with a feeling of futility I recognize the melancholy truth that the anticipated dawn of enlightenment does not seem destined to appear soon."

In separate concurring opinions, Chief Justice Rose Elizabeth Bird and Justice Mathew O. Tobriner agreed with the ruling in the case at hand but criticized their colleagues for taking up the larger issue. Bird said the issue was far too important for a "rush to judgment."

Rules for lobbyists

In a 4-3 decision, the Supreme Court upheld major portions of the Political Reform Act of 1974 but struck down a provision preventing lobbyists from making campaign contributions. Lobbyists generally were not pleased with the outcome because legislators now are free to solicit donations from them and because the court refused to lift the provision that restricts advocates from spending more than \$10 a month wining and dining public officials.

The court rejected the contention that the entire law is unconstitutional because it covers more than one subject. The lead opinion was written by Justice Clark, joined by Mosk and Richardson. Tobriner filed a concurring opinion. The dissenters were Bird, Manuel and Newman — all for different reasons. Bird accused the majority of gutting the act.

STRICTLY OPINION

With this column, the Journal provides a forum for Californians wishing to express a variety of opinions on state political issues. Inquiries about possible future columns are encouraged.



Corporations and candidates

By PETER COYE

The cost of running for the California Legislature has been skyrocketing. This spring Ken Maddy and John Thurman locked horns in a special Senate election and spent almost \$1 million. That election was just the most recent of several dollar shockers around the state. Inflation in the campaign industry makes the inflation in the general economy look like a sick horse.

For example, between 1976 and 1978 the expenditures for Assembly Democratic primary winners went up a whopping 61 percent. And a Republican primary winner in 1978 could expect to pay 49 percent more than in 1976.

Organized political donations from institutional sources (unions, PACs — Political Action Committees — and corporations) account for the lion's share of the increased expenditure. Expectations on the part of candidates (for money at election time) and the expectations of institutions (for political access) have leap-frogged over each other, pushing the stakes and money involved in politics higher and higher.

A difference between California state law and federal law is that corporations cannot legally donate to federal candidates, but they can give to California state candidates. Federal law deems pernicious the involvement of corporate money in elections. After all, the proper "interest" of corporations is profit, not political influence. The government should represent people, the theory goes, not economic interests. But in California corporations are allowed a political life in the affairs of the state — and that life is growing by leaps and bounds.

As election expenditures go up, the proportion of funds in any one candidate's coffers which come from his dis-

trict shrinks. The citizen who supports a candidate to represent his district becomes financially insignificant. His donation is swamped in the avalanche of dollars from institutional sources from outside the district.

The corporate mega-bucks now flowing into campaign war chests are distorting the character of California politics and adding gasoline to the fires of public cynicism. The mentality of "if my opponent is buying \$50,000 worth of television time then we have to buy \$75,000 to win" creates a politics of media hype. And corporate America is there for the financing, knowing that in the end it will pick up the chips. The result is that the citizen is removed even further from the political process.

At one time in our history the needs of the citizenry were seen as distinct from any parochial or economic interest. I thought the mentality of "what's good for General Motors is good for America" was deflated years ago. But I guess I was wrong. The resurgence has come in a subtler, but more meaningful form: money for candidates.

The state and federal governments both have a dual function. One is to mediate conflicts in the society; the second is to lead, and to remind us that society involves something more than merely competing private interests. To allow corporations to financially support political candidates fosters an economic parochialism we should not tolerate in our politics.

The practice of allowing political donations from outside a candidate's district should be stopped — as should all corporate contributions. Why should we allow anyone but a citizen residing (and registered to vote) in District X to financially support candidates running for public office to represent that district?

We should no more allow "foreign" individuals, corporations, PACs and unions to contribute to a candidate than we today allow them to vote for that candidate. A contribution of sev-

eral thousand dollars from a corporation in New York is more influential in getting a California candidate elected than if we allowed that corporation a vote in the election. Why should we allow "foreign" interests to dictate the direction of supposedly local politics through financial contributions?

Implementing this proposal could be quite simple. The California Legislature could pass a law prohibiting anyone but a citizen living in District X from making financial contributions to candidates running for political office from the district. This would prohibit corporations from making political donations, and all funds collected for campaigns would come from people living in that district.

There would be two important results. First, all contributions would be directly from the wealth or income of people. Second, those people would live in the district the candidate proposes to represent. Under present law, the trend is exactly the opposite; more and more money comes from institutions, not people, and increasingly the address on the check is from somewhere far outside the district.

If put into effect, this proposal would dramatically change elections in California. Besides relegating corporations to the sidelines, it would help those candidates and local grass-roots organizations willing to do the hard work of direct door-to-door campaigning.

As the laws are structured now, the bias is in favor of the corporations and the big-dollar media campaigns. Last year "United For California" doled out more than \$275,000 to candidates in California. "United For California" is nothing more than a front organization for the Bank of America, Atlantic Richfield, Standard Oil of California, Wells Fargo, the Union Pacific Railroad, Dow Chemical and their corporate friends.

"United for California" and their ilk should be put out of business. Now.

Peter L. Coye is a political consultant and campaign manager who lives in Claremont.

THE TROUBLED WATERS OF MONO LAKE

UNIQUE ECOLOGICAL RESOURCE OR WASTEFUL BRINE SINK?

By RON BASS

East of Yosemite National Park lies one of California's major natural resources: Mono Lake. Originally 100 square miles in surface area, Mono used to be the largest natural lake entirely in California. Its highly saline and alkaline waters distinguish it from California's other lakes. Because of the unusual chemical content of the water, Mono supports a unique biological community dominated by thousands of California gulls and millions of migratory birds. Mark Twain called the lake "one of the strangest freaks of nature to be found in any land."

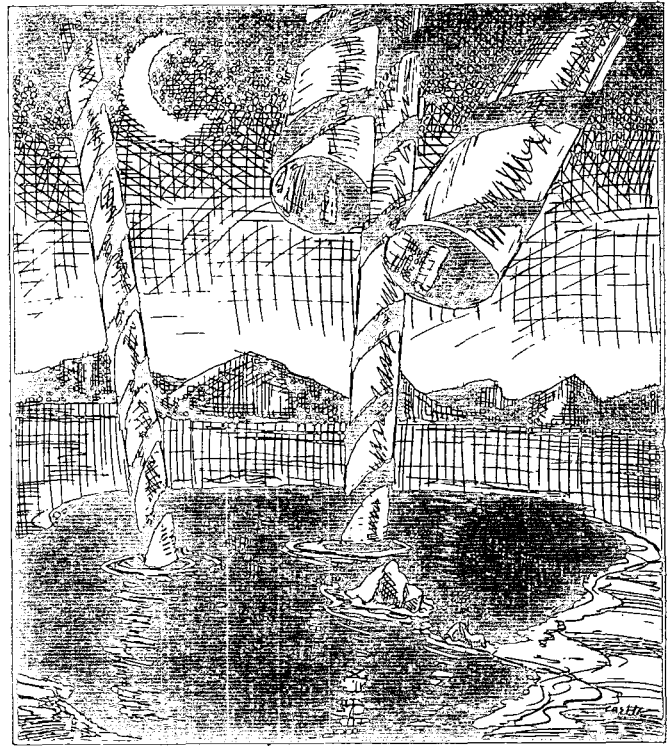
But nature's strange freak is in jeopardy. The needs of a thirsty Los Angeles, almost 300 miles south of Mono, are in conflict with a campaign to save the Mono ecosystem. Since 1940, when the city of Los Angeles first began to divert Mono tributaries away from the lake, its level has dropped about 44 feet. The drop has caused environmental damage which, until recently, was ignored by all but a handful of scientists and local residents. In the past several years, through the efforts of a few individuals and the Mono Lake Committee, statewide and even national attention has been focused on the problem of Mono Lake. A drive to save it is underway — but it may be starting too late.

Complicating the picture are the strained relations between Los Angeles and Inyo County, Mono's southern neighbor. Since the construction of the LA aqueduct in the early 1900s, Los Angeles has been diverting water from the Owens Valley to provide for the needs of the growing city. In 1970, LA completed its second aqueduct and increased its groundwater pumping drastically. Subsequently, Inyo County sued Los Angeles over the increased pumping. Despite the court-ordered preparation of a new environmental impact report (EIR) by Los Angeles, the lawsuit is still pending. Recent attempts at a negotiated settlement have failed. Because LA gets water from both Inyo and Mono counties, the solution to either dispute will undoubtedly affect the other.

Towers and gulls

Of volcanic origin, Mono Lake was created between one and three million years ago with the uplifting of the Sierra Nevada. It is one of the oldest continuously existing bodies of water on the North American continent. Because it has no outlet, its size is determined by the amount of water entering from underwater springs and its tributaries, and by evaporation. Two islands, Negit and Pahoa, are Mono's most conspicuous landmarks. Negit, the black island, is a dark volcanic cone, and home of many of Mono's nesting gulls. Pahoa, the white island, is also of volcanic origin but, because of its dusty surface and the presence of feral goats, is presently unsuitable for nesting birds. Among Mono's most unusual geological features are its tufa formations, bizarre mounds and towers that develop as spring water bubbles up through Mono's carbonate-rich brine.

Mono's biology is as unique as its geology. Only two species of animal life have been able to adapt to Mono's



unusually saline and alkaline waters — the brine shrimp and the brine fly, whose larvae live in the water. Because Mono supports no fish population, these two species multiply by the billions, providing a rich food source for Mono's birds.

Historically, Mono has supported one of the largest known colonies in the world of the California gull, about 90 percent of the state's breeding population. Until recently, about 46,000 gulls raised their young at the lake, mostly on Negit Island and several other small islands nearby. In addition to the gulls, Mono is an important stopover for millions of migratory birds.

The idea of using Mono water for Los Angeles was first conceived in 1920 when the city entered into a contract with the U.S. Bureau of Reclamation for a study of the feasibility of a Mono Basin diversion project. Results indicated that an additional supply of nearly 140,000 acre feet per year could be developed by diverting four of Mono Lake's tributaries and building a tunnel under the Mono craters. In 1934, permits were issued by the state Water Resources Control Board to divert a combined flow of 200 cubic feet per second from four Mono tributaries and to store up to 94,000 acre feet of water in L.A.'s various reservoirs.

Then in 1963 LA announced plans to build a second aqueduct to transport water from both the Owens Valley and Mono Lake. The second aqueduct began operating in 1970. The city again was granted additional water appropriations and won the right to appropriate about 167,000 acre feet or the entire flow from four of Mono's five tributaries.

Perhaps the most notable impact is the declining lake

Ron Bass is an environmental coordinator in the state Office of Planning and Research.

Here is what the Mono Lake Task Force recommended in its nine-point plan:

- Immediate reduction of water export from Mono Basin from an average 100,000 acre feet per year to 15,000 acre feet per year. AB 367 (Waters) would be amended to include such a provision, which would cut the Los Angeles' water supply 17 percent.
- State legislation to protect LA's water rights through non-use.
- Immediate excavation of a channel between Negit Island and the mainland for protection of the gull rookery from predators. Costs to be borne by the state from the Environmental Protection Program (license plate fund).
- Purchase by the city of LA of up to 85,000 acre feet of replacement water from the Metropolitan Water District. Cost of replacement water would be borne equally by the federal government, the state and the city for five years; by the state and city only for the ensuing two years; and by the city alone thereafter. Total bill: \$223 million over several years.
- Urban water conservation within the LA water service area of 15 percent, based on pre-drought use — this goal to be reached by 1985.
- Statewide urban water conservation through legislatively enacted inverted rate structure.
- Expansion of waste-water reclamation efforts in LA, increasing from 4,000 acre feet in 1981 to 56,000 in 1987. Costs to be borne by three levels of government.
- Five-year research program under leadership of Bureau of Land Management and Department of Fish and Game, funded by federal government, state, Los Angeles and Mono County.
- City of LA to bear entire cost of lost electric-generation capacity.

level. The increased 1970 diversions are now causing the lake to decline at almost two vertical feet per year. Because Mono is a relatively shallow lake, the vertical declines have reduced the lake to about two-thirds of its 1940 size and have exposed about 14,000 acres of former lakebed. If diversions continue at present rates, Mono Lake will stabilize at about one-third its original size.

And there are other effects:

- **Its chemical content** has changed: Both salinity and alkali levels have increased dramatically, potentially endangering Mono's ecosystem.

And there are other effects:

- **The lowering level** has caused Negit Island to become a peninsula. Predators such as coyotes, raccoons and snakes may now reach the island to feed on young gulls and gull eggs. All of Negit's gulls have abandoned the island, and biologists fear that irreversible ecological damage may have already occurred. In both 1978 and 1979, attempts to blast a channel between Negit Island and the mainland proved unsuccessful.

- **The lowered water** also threatens Mono Lake as a stopover for migratory birds.

- **The receding lake** has exposed thousands of acres of former lake bottom which has dried and formed a fine alkali dust. Strong winds in the Mono Basin cause clouds of dust to be swept into the eastern Sierra atmosphere, fouling the air and endangering the health of plants, animals, and people.

- **There has been extensive** loss of wildlife habitat and riparian vegetation on Mono's tributaries downstream from the diversion point, as well as decline in ground water levels and loss of recreational and scientific potential.

Action on four fronts

Efforts to solve problems at Mono Lake are occurring on four fronts:

- **The Mono Lake Committee.** Officially formed in March 1978 under the auspices of the Santa Monica Bay Audubon Society, the committee is now an independent organization, devoted to educating federal and state government officials and the public about the conditions at the lake.

- **The California Legislature.** Assemblyman Norman Waters introduced legislation to prohibit further diversions from Mono Lake until it again reaches certain levels and until other environmental conditions are satisfied. As passed by the Assembly, however, the amended bill

(AB 367) provides \$250,000 from the environmental license-plate fund for dredging a channel between Negit Island and the mainland. In the next session, further legislation probably will be introduced to broaden safeguards.

- **Interagency Task Force on Mono Lake.** A nine-point, cost-sharing plan (see box) for saving Mono Lake, released in August, has been subjected to public hearings this fall. The key to its success will be the support of the LA Department of Water and Power, which listed major reservations in a minority report. It appears likely that LA will fight any loss of water or energy-generating capacity that would result from the task force's plan.

- **Legal action.** The Mono Lake Committee, Friends of the Earth, National Audubon Society and some residents of Mono County recently filed a lawsuit against the city of Los Angeles. The lawsuit is based in part on the "public trust" doctrine and seeks a temporary end to the LA water diversions. The city's response to the suit: "Diversions of water were undertaken for the express purpose of salvaging the waste and unreasonable use of the state's waters by means of reduction and evaporation in the brine sink of Mono Lake."

A third legal step has also been taken to protect Mono Lake: Inyo County has filed a supplemental petition in its lawsuit, asking the court to require LA to prepare a comprehensive Environmental Impact Report on its entire water-gathering system. If such an order were to be issued by the court, the Mono Lake water diversions would have to be addressed in the EIR.

Changing rules

In 1941, when the City of Los Angeles first began to divert water from Mono's tributaries, the lake was considered a mere "dead sea" where fresh drinking water was being wasted through evaporation. Few environmental laws existed to protect such resources. But in 1979 the environmental consciousness of Californians, and of Americans in general, is considerably higher. Yet if Mono Lake is to be saved, the federal, state and local government decision makers must be willing to apply today's environmental ethic to a problem that began 40 years ago. Proponents of the Mono water diversions feel that LA should not be forced to relinquish its legal right to Mono's water simply because environmental values have changed. Thus the decision to save Mono Lake or allow it to dry up will be a major environmental test.

November 1979
SPECIAL ELECTION

California Journal Ballot Proposition Analysis

Californians will go to the polls November 6th to decide the fate of four ballot propositions in the first statewide special election since 1973. The Legislature and Governor Brown called the election in an effort to expedite a vote on Proposition 1, which was designed to curtail busing in Los Angeles schools. Paul Gann's "Spirit of 13" initiative and two relatively minor proposals won spots on the ballot only because of the political potency of the busing issue. Otherwise, they would not have been on the ballot until next June.

The last statewide special election was called six years ago by then-Governor Ronald Reagan in an attempt to win approval for a government-spending initiative he personally sponsored. The proposal was defeated. It was similar in general purpose to Proposition 4, the Gann plan, which would place annual percentage limits on increases in state and local spending.

Reprints available

Additional copies of this special report are available for 25 cents each, with a \$1 minimum purchase. Send orders to the California Journal Press, 1617 10th St., Sacramento 95814. Postage and handling are free on pre-paid, Visa or Master Charge orders.

1

STUDENT BUSING

This proposed constitutional amendment would prevent state courts from establishing different principles than federal courts in school-integration cases.

Background: This measure, authored by Senator Alan Robbins from the San Fernando Valley, is designed to halt court-ordered busing of students in the Los Angeles city school system. Whether it would do so — and how many other busing plans it would affect — is the subject of speculation.

Los Angeles school integration was ordered under guidelines set down by the state Supreme Court. Under these standards, public-school segregation within each dis-

trict must be eliminated where reasonable and feasible regardless of cause. Until recently, the United States Supreme Court required that schools be integrated only where segregation was caused by government intent. Proposition 1 would prohibit the state from exceeding federal standards.

Robbins drafted the proposal in the belief that it would halt the court-ordered busing program in Los Angeles (and in some other districts) under the theory that segregation did not result from government action with discriminatory

intent. At the time, there were some lawyers who maintained that a case could be made for discriminatory government action in Los Angeles.

Since the proposed constitutional amendment cleared the Legislature, however, there apparently has been a major change in the United States Supreme Court's guidelines on school integration. In two Ohio cases, the federal court appears to have moved closer to the California standard, saying that segregation need not result from direct government action with discriminatory intent. These cases leave considerable doubt as to the probable practical effect of Proposition 1. Los Angeles now buses students on a limited basis, and attorneys for the school district claim passage of Proposition 1 could require systemwide busing. Robbins maintains that there is virtually no chance that the measure will force an increase in busing because the intent of the electorate will be clear.

Here are the four basic elements in Proposition 1:

- **California courts** would be required to follow applicable federal court decisions in pupil-assignment and transportation cases.

- **The new standards**, presumably less liberal than the current ones, would be retroactive. Courts would be required to review previous integration cases when requested to do so.

- **California courts** would be required to give school-assignment and transportation cases higher priority than all other civil (but not criminal) cases.

- **School districts** would be allowed to maintain desegregation plans or initiate new ones on a voluntary basis.

Pro arguments: Busing has not proved a useful tool in achieving desegregation because its financial and educational costs render it counterproductive.

The Los Angeles busing program has produced "white flight" — the mass movement of families outside the district boundaries and the transfer of students to private schools.

Busing has resulted in racial strife and tension instead of racial harmony. The adoption of this proposition will allow officials to turn toward more appropriate means of solving the integration problem.

It is a myth that busing is needed to provide equal educational opportunities for minority youngsters. Proposition 1 would put money into schools, teachers and books, not buses, gasoline and drivers.

Con arguments: Proposition 1 will not halt busing in Los Angeles. This is because the courts have found that segregated schools resulted from official acts of the board of education. Thus, the order met even the old federal standard.

Furthermore, there is a good chance the proposal will be declared unconstitutional because its enactment could be interpreted as intentional segregation.

Under the new federal cases, it is possible that Los Angeles may be forced to increase busing. This includes the possibility of metropolitan busing, with students being transported across school-district lines.

This measure would weaken the right of minority students to obtain equal educational opportunity. Enactment of the proposition would be a signal that the state is on the side of prejudice, not equality.

2

INTEREST-RATE LIMIT

This proposed constitutional amendment would revise the California usury law so that interest rates on some business loans could exceed 10 percent.

Background: This measure is similar to two proposed constitutional amendments rejected by the voters twice in the 1976 primary and general elections. Most legislators have consistently favored a change in the state's usury law, and they feel that the public's opposition thus far has been based on the complexity of the issue. As in the two previous instances, the measure is difficult to comprehend.

The constitution now has a 10 percent limit on interest rates, but this restriction has no effect on the normal sources of consumer loans — savings and loan associations, commercial banks, credit unions, industrial loan companies, pawnbrokers, agricultural cooperatives and personal property brokers. These lenders are already exempt from usury laws.

Proposition 2 would apply only to other lenders, such as individuals, insurance companies and mortgage bankers — and only to business loans. This proposition would lift the 10 percent limit for business lenders. For real-estate loans made by mortgage brokers and mortgage bankers, the rate limit would be eliminated altogether. For real-estate and business loans made by individuals and insurance companies, a new floating limit would be set. It would be 5

percent plus the current federal reserve rate (the rate charged banks). That would have produced a maximum rate of 14½ percent this past summer.

Pro arguments: The current 10 percent limit is unrealistic and prevents California businesses from obtaining expansion capital. Mortgage bankers have all but curtailed loan activities in the state.

The usury law has produced a shortage of money that inhibits the construction of new homes, apartments, stores and factories to provide new jobs.

Cheap money is no money in the current money market. The usury law is of no use to individuals because consumer credit is exempt from the 10 percent limit.

Con arguments: This measure will hurt consumers because money will be channeled to business loans and boost consumer rates.

The increased cost of money to business will be passed on to the consumer in the form of higher prices.

Individuals could be charged higher interest rates under this proposition if less than half the loan would be used for household needs and more than half for other purposes.

3

VETERANS' EXEMPTIONS

This proposed constitutional amendment would make technical changes in property-tax law and maintain the current value of veterans' exemptions.

Background: Under the current law, assessments on real estate in California are supposed to reflect 25 percent of actual market value. This proposition is designed to eliminate the 25 percent ratio and to maintain the current property-tax exemption available to some veterans.

Passage of Proposition 3 would place in effect two bills passed by the Legislature. They would change the assessment ratio from 25 percent to 100 percent of "full value," starting with the 1981-82 tax year and make a number of technical changes in the property-tax law. It would also revise the veterans' exemption so that its value would remain unchanged. Under current law, the exemption is \$1,000 of assessed value. That would change to \$4,000 if Proposition 3 is passed.

Pro arguments: Passage of this proposition is desirable to eliminate citizen confusion about the property tax. There would be no change whatever in the amount of taxes paid, but citizens would be able to understand how their taxes are computed once the full-market-value system is put into effect. There would also be no change, as a practical matter, in the veterans' benefit.

Con argument: Since this proposition makes no real changes in the law, why place it on the ballot? Why should the Legislature and the public spend time and effort on technical changes to the state constitution? Passage of the proposal will merely encourage lawmakers to put more of these weightless proposals on the ballot in the future.

4

GOVERNMENT-SPENDING LIMITATIONS

This initiative proposal would place in the state constitution spending limitations for state and local governments.

Background: The California Constitution now places no limit on how much each unit of state and local government may spend each year. And there is also no limit on how much a budget may increase over the previous year's appropriation level. This proposition, entitled by sponsor Paul Gann the "Spirit of 13" initiative, would impose such limits on state and local governments. The basic provisions:

- **The annual allowable rate** of growth would be based on the change in the cost of living and population.
- **Surplus funds** would be returned to the taxpayers within the next two years.
- **Appropriations by the state** to local government would be included in the local limit but not in the state's.
- **In case of emergency**, the limit could be exceeded. But the budgets for the ensuing three years would have to be reduced to make up for one emergency overrun.
- **Voters in any unit** of government could change the limits by majority vote. The new limit would be in effect no longer than four years.
- **The state would** be required to pay for any new program or higher level of service mandated on local government.
- **Fees that exceed** the cost of providing the related service would be considered taxes for purposes of establishing limits.
- **In computing the limit** each year for a school district, average daily attendance would be used instead of population.
- **Appropriations required** to comply with federal government or court mandates would be excluded from the limits.

• **The limits would** become effective in the 1980-81 fiscal year and would be based on expenditures made during the "base year" of 1978-79.

• **The limits would not apply** to appropriations financed other than by general tax revenues, such as federal grants, bond sales, traffic fines and service charges.

What would be the net effect of Proposition 4? Legislative Analyst William Hamm claims that is impossible to predict, especially in light of the current rate of inflation. If Proposition 4 had been in effect during the past decade, it would have reduced spending in six out of the 10 years, according to Hamm. He feels that appropriations probably would be "modestly lower" in the first year than they would have been without the initiative.

There are others who claim that the measure has so many loopholes that it will have no practical effect on government spending. (See con arguments.)

Proposition 4 is sponsored by Paul Gann, co-author of Proposition 13 on the June 1978 ballot; the California Chamber of Commerce; the California Farm Bureau; the Federation of Independent Business; Secretary of State March Fong Eu; Assembly Speaker Leo T. McCarthy and Assembly Republican Leader Carol Hallett.

The opposition is being led by Jonathan C. Lewis, executive director of the California Tax Reform Association; John F. Henning, executive secretary of the California Labor Federation AFL-CIO, and Susan F. Rice, president of the League of Women Voters of California.

Pro arguments: This proposition is needed to complete the work started by Proposition 13. Some elements of government did not get the message of Proposition 13, and additional steps must be taken to prevent the growth of

government and eliminate wasteful expenditure of public funds.

This measure will curb excessive user fees imposed by local government to recoup property tax revenues lost through Proposition 13. The initiative will close other loopholes found by government officials to circumvent the intent of Proposition 13.

Under this measure, surplus funds will be returned to the taxpayers, not left in the state treasury to be spent on unnecessary programs. This proposal will force state and local governments to restrict spending, yet it will provide for emergencies and reasonable growth.

Proposition 4 does not put a straitjacket on any element of government. In fact, it provides that the limits can be changed by a vote of the people.

Con arguments: Proposition 4 is a fraud because it won't

accomplish anything. The spending limits will be extremely high as a result of inflation, and the measure is loaded with loopholes. It does not ban the use of fees and it excludes major portions of public budgets, including expenditures required to meet federal or court mandates.

This measure will not eliminate waste in government because the power to tax and spend will be in the same hands. If government officials have not eliminated fat in the past, there is no reason to believe they will do it under this initiative.

Genuine tax reform is needed, a change in the system that will force everyone to pay his or her fair share. This proposal tends to freeze current inequities.

Proposition 4 would place a straitjacket on government at a time of economic uncertainty. It could cripple needed economic growth by eliminating any incentive for local government to approve new developments.

Text of key provisions of November propositions

PROPOSITION 1 (BUSING)

A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

PROPOSITION 2 (USURY)

The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan

or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks...

PROPOSITION 3 (ASSESSMENTS)

In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this article to maintain the same proportionate values of such property.

PROPOSITION 4 (SPENDING LIMITS)

SEC. 1. The total annual appropriations subject to limitation of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and population except as otherwise provided in this Article.

SEC. 2. Revenues received by any entity of government in excess of that amount which is appropriated by such entity in compliance with this Article during the fiscal year shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years...

In the event of an emergency, the appropriation limit may be exceeded provided that the appropriation limits in the following three years are reduced accordingly...

SEC. 6. Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected:

(b) Legislation defining a new crime or changing an existing definition of a crime; or

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975...

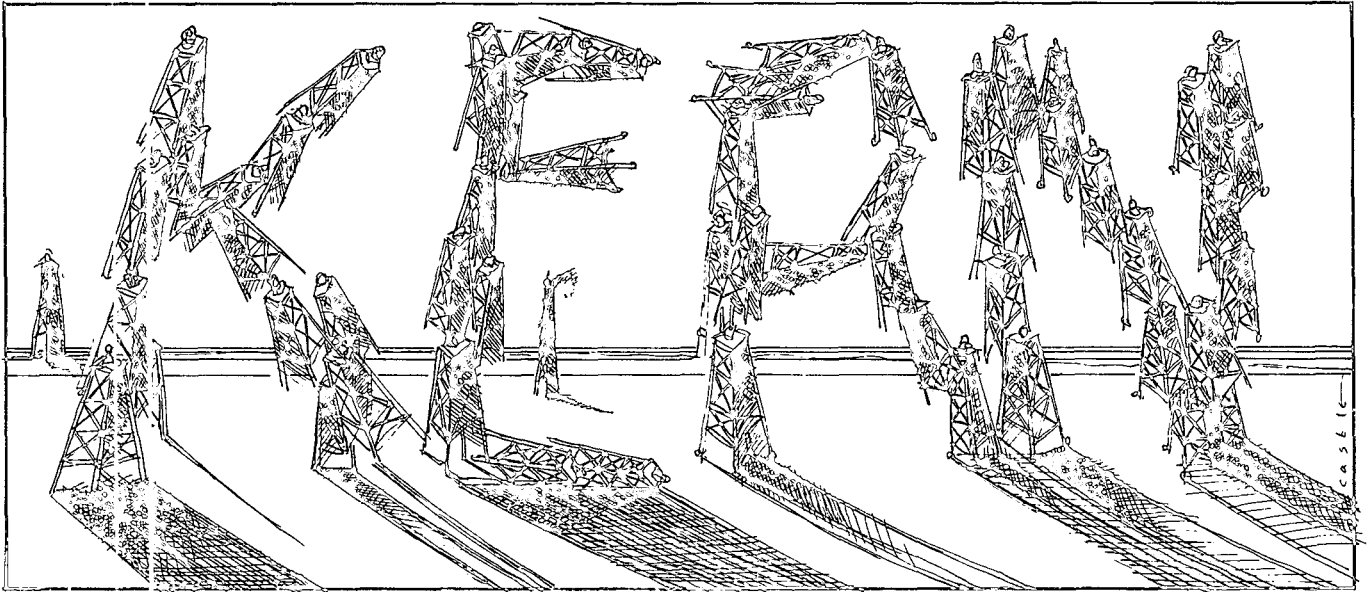
SEC. 9. "Appropriations subject to limitation" for each entity of government shall not include:

(a) Debt service.

(b) Appropriations required for purposes of complying with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly...

California's oil sheikdom (also known as Kern County)

By MAUREEN McCLOUD



Not long ago, lines of fuel-hungry motorists snaked around city blocks in Los Angeles. Yet, just 100 miles to the north, almost 3 billion barrels of "recoverable" crude oil lay underground in Kern County. If President Carter succeeds in his effort to decontrol oil prices, the amount of "proven" reserves could rise as high as 8 billion barrels. (In the oil industry, the amount in "reserve" bears no relationship to how much oil is in the ground. Reserves are determined by how much can be feasibly recovered, given existing technology and economics.) Even using the lower figure, there is now more oil in Kern County than in the OPEC nation of Ecuador. Kern County has almost 10 percent of all oil reserves in the United States. The oil industry in Kern County has an estimated market value of almost \$5 billion.

With so many barrels of oil (each 42 gallons) sitting a short distance up Interstate 5 from Los Angeles, why has so much gasoline been so unavailable to so many? Kern County has often been accused of harboring oil sheiks who are even more high-handed than the OPEC ministers. The argument goes that the oil industry has been hoarding heavy crude until prices rise.

E. H. Schuler, general manager of Getty Oil's western exploration office in Bakersfield, is frank about the position of his company, the largest producer of Kern County oil outside of the United States government. "I am here to protect the company's assets, which happen to be heavy crude oil," he says. "If our stockholders voted to liquidate our assets, I'd go ahead with this expensive drilling of the crude oil and sell it at a loss. However, that's not my understanding of what Getty stockholders want. If that makes me

like a Middle Eastern oil sheik, then maybe I am."

So Getty executives and other oil producers were elated when President Carter announced in July a special effort to help producers of heavy crude. The administration not only wants to decontrol prices on heavy crude — which the company claims have been maintained at an artificially low level — but it also would exempt income from heavy crude from the proposed windfall-profits tax.

Getty estimates that it can produce some 85,000 barrels a day in Kern County if the economics improve, compared to some 50,000 a day at the present time. (In comparison, the government's oil field at Elk Hills in Kern County now produces 155,000 barrels a day. Elk Hills is the fourth most productive field in the United States, and it accounts for about 16 percent of California's crude production.)

Other hurdles

But Getty and other producers know that decontrol is only one hurdle on the path toward greater production and higher profits. They must also convince state and federal regulatory agencies that more drilling will not further damage the area's air quality.

And closely tied to the issues of economics and environmental pollution are the politics of energy policy. President Carter is pushing for a windfall-profits tax with as few loopholes as possible. Senators from some states with rich oil interests are busy poking all sorts of exemptions into Carter's tax proposal. And U.S. Senator Alan Cranston is seeking some kind of compromise that would encourage more production without granting more tax exemptions for heavy-oil producers.

The resulting scenario is complex, controversial — and

Maureen McCloud is a free-lance writer in Bakersfield.

Kern County Oil Reserves

36% Elk Hills	DOE (Williams Bros., contractor), 950 million barrels
4.3% Tule Elk	DOE (Williams Bros.), 110 million barrels
16% Kern River	Getty Oil, 430 million barrels
8.2% Kern River	Santa Fe Energy Corp., 220 million barrels
7.4% Midway-Sunset	Santa Fe Energy Corp., 200 million
7.4% Midway-Sunset	Chevron and others, 200 million
3.5% Belridge South	Belridge Oil Corp., 100 million barrels
1.7% Belridge South	Mobile Oil, 50 million barrels
1.7% Belridge South	Chevron, 50 million barrels
.8% Tule Elk	Chevron, 20 million barrels
13%	Arco, Union, Texaco, Shell, Tenneco, Gulf and independent operators, 350 million barrels

These tables were compiled from information supplied by the state Division of Oil and Gas, the American Petroleum Institute, the Conservation Committee of the California Oil Producers and other sources. The estimates of reserves are based on current reports, economic factors, technology and production trends.

vitaly important to California's economy in the next few decades. Understanding the issues involved must begin with the nature of crude oil as it lies beneath Kern County. The crude is about the consistency of cold molasses, buried deep in the ground. (Tenneco has drilled the deepest producing Kern well to date, almost 19,000 feet.)

Pressure points

Because the crude oil is so viscous, or syrup-like, a second steam well must be drilled for each oil well drilled. The steam is injected beside the oil and, after a few days, the oil softens, the steam is turned off and the oil is pumped to the surface. Such a process is known as "enhanced recovery."

To keep the steam flowing with sufficient pressure down thousands of feet of pipe, 50-million-Btu-per-hour generators must be used in the oil fields. They are powered by a "Catch-22" method not unlike the motorist who burns up his gas looking for an open station. The steam generators must consume nearly one barrel of crude oil for every three that they help recover.

In this process, the generators give off two particulates, sulfur dioxide and nitrogen oxides. Both are deadly in even small quantities. The federal Environmental Protection Agency, the state Air Resources Board and the Kern County Air Pollution Control Board require the oil companies to control emissions of sulfur dioxide. The generators' emission problems — and the cost of solving them — are the crux of the environmental conflicts in Kern County.

Before decontrol, Getty Oil got a maximum of \$5.33 for each barrel of oil drilled in this fashion. The major oil companies, including Arco, Chevron, Mobil, Texaco, Union and Getty, account for about 40 percent of the barrels of oil drilled each day. The remaining 60 percent belongs to the independents. (The independents are mostly small businessmen. However, large companies like Superior Oil and

Belridge Oil are considered "independent.")

Air pollution problems will face all of the oil producers as they gear up for increased drilling of heavy crude. But the special relationship between Getty Oil and Kern County made a controversy last year — known locally as the "Getty incident" — a significant signpost of the troubles ahead. In particular, it helps to explain why "outside" regulation by state and federal agencies is held suspect, even by some of Kern's most dedicated environmentalists.

Getty Oil occupies a special place in the hearts of most Kern residents. An insular, "us-versus-them" attitude permeates all aspects of life in Kern, and in this setting Getty is, most assuredly, "one of us." The company has been in the area since the early part of the century. Anyone who has lived in Kern County for any length of time is almost certain to have a parent or grandparent, a friend or neighbor who has worked for Getty Oil at some time.

In reality, the company is a giant diversified corporation, with international holdings in chemicals, urban and farm lands, tankers and fertilizers. But locally Getty pioneered the "enhanced recovery" methods and opened thousands of jobs in its Kern River field. It made a major technological contribution to agriculture with a water purification system from its steam generators. The company is widely regarded as a generous, forward-looking part of the community.

"It was especially unfortunate that this had to happen to Getty," says county supervisor Gene Young of the "incident." "They were forerunners in many areas of cleaning up the water and air, and a lot of it they did voluntarily. This community has real pride in Getty Oil."

The "incident" began in June 1976, when Getty applied for permission to operate 62 steam generators in its Kern River field near Bakersfield. A condition of that permit stated that, if the sulfur dioxide emission standards were ever exceeded, the company would either have to shut down the generators, burn costly low-sulfur fuels, or install "scrubbers" on the stacks of the generators. Getty agreed to the conditions and accepted the permits.

An official of the state Air Resources Board emphasizes that Getty had ample time to study the conditions of the permit. Supervisor Young and Kern County Chief Air Sanitation Officer Citron Toy make the same observation. "Getty took a calculated risk in accepting the conditions of the permit," Toy says. "But we had a model study made that showed the likelihood of Getty's exceeding those limits was about the same as the sun not rising tomorrow."

E. H. Schuler of Getty contends there was ambiguity as to the company's course of action if an overrun did occur. EPA did not make it clear at the time the permit was issued that a total shutdown would be mandatory, he says. Getty had contingency plans to totally offset the pollution if the emissions standards were ever exceeded, he adds. "If we refused to go along with any of EPA's demands, we wouldn't have been granted the permit. Then we wouldn't have been able to drill at all, and all the oil would be where most of it still is today — in the ground."

The 'impossible' happens

Other sources say than an overrun of the standards (140 parts per billion in a 24-hour period) could have occurred only in the most freakish of circumstances. Getty had taken great care to see that the state of its technology would ensure continued production by avoiding such an incident, they say. But on December 26th, 1978, the freakish did occur. The entire San Joaquin Valley, roughly shaped like a bathtub, was locked into what the locals call a "tule fog." The mass of cold, stagnant air hadn't moved for days. Getty's giant generators were pouring out steam, and sulfur dioxide, to get on with the business of "enhanced recovery." For one 24-hour period, the readings rose to about 179

Recoverable Oil Reserves

billion barrel: of oil	
29	United States (including those locations listed below)
10	Alaska
9	Texas
3.6	California (including Kern County)
3.5	Louisiana
2.7	KERN COUNTY
20	Mexico
30	OPEC: Abu Dhabi
32	Iraq
60	Iran
166	Saudi Arabia
66	Kuwait
1.2	Equador
10	Indonesia
40	USSR
20	China

parts-per-billion. The sun shone the next day, the weather improved and the readings returned to acceptable EPA levels.

One disgruntled petroleum engineer for Getty observed that "two Boy Scouts lighting a campfire in the Kern Field would have exceeded EPA standards on a day like that." However, to comply with the letter of the law, Getty shut down the 62 generators, stopped drilling and began work on its contingency plan. The pill was made more bitter for Getty by a bureaucratic fluke: Many other operators drilling in the Kern River field, some only a few yards from the Getty wells, had permits that did not fall under the same ones issued from the EPA in 1976. Their pollution level was at least as great as Getty's, but they were able to continue operations, only because they had permits granted at a different time or by a different governmental body.

Pro-Getty voices rose in protest throughout Kern County. "This sentence was more unreasonable than anyone would have received in any criminal court," Supervisor Young charged. "For a first offense, you get a fine, a warning, a probation or some combination. The EPA's action was like arresting a driver for going 57 miles per hour, and then telling him he could never drive again."

At the going rate of \$5.33 per barrel, Getty claimed it could not justify installing scrubbers or burning low-sulfur fuels. So it had to shut down the offending generators. The Kern River Field production declined by 8,000 barrels per day by the end of last May, and the 62 generators remain shut down.

But now Getty is encouraged by the DOE's revision of classifications of properties on the Kern River Field. These revisions should bring prices more in line with world levels and make investment in new extraction equipment and in pollution-control devices economically more feasible.

Vice President Schuler adds a note of caution: "We borrow money to finance projects like the Kern River Field,

and the DOE has to give us something of substance now that we can count on. We have to have consistent regulations that won't conflict with one another."

Even environmental leaders in Kern County are sympathetic with Schuler's appeal for consistency. They know the various regulatory bodies have sometimes conflicted, and they blame much of the confusion on local officials.

One such environmentalist is Joy Lane, who last year was a leader in the successful fight to defeat Los Angeles' plans to build the world's largest nuclear power plant in Kern County. She says, "The board of supervisors (which also sits as the local Air Pollution Control Board) has never seen the necessity to act, to take preventative steps. They never considered any arguments about the nuclear plant until it was clear at the eleventh hour how the vote would go. Consequently, we get sidetracked into things like the Getty incident. No one wants the oil companies to clean up their part of the air pollution mess more than I, but I can understand their discomfiture and their problems with the outside regulatory bodies."

Long-time resident and activist Lane and her physician-husband Frederic helped to draft the guidelines for the first Kern County Air Pollution Control District formed in 1968, as part of a state plan to comply with federal guidelines. She recalls, "We all seemed to act in good faith then, and local control was our watchword. We often had totally different points of view and priorities, but we were all local people who could talk to one another. Somewhere, as the bureaucracy grew, things got bogged down and fell apart."

Unquestionably the local permit process is a problem. More than 500 applications from oil producers have piled up, and the county health office says that, with current staff and procedures, it can handle only about 125 permit applications a year.

But there are other problems far beyond local officials' control. There are 300 existing steam generators without scrubbing equipment, and the state ARB held hearings last month on how to deal with the resulting pollution problems. There are many refineries in the state unable to process large quantities of heavy oil. And the major product of California crude — residual fuel oil — has a limited market on the West Coast because its sulfur content is too high to comply with local pollution standards.

An uncertain future

So the future of the crude oil industry in Kern County is uncertain. Assemblyman Don Rogers, who is almost a petroleum geologist, is optimistic. "You don't put out a fire by throwing gasoline on it, and that's what I see if we continue with more government regulations and controlled prices. But if the politicians, the press and the public get all the facts, I think the free enterprise system will prevail and we'll work our way out of this."

But others are not as enthusiastic as Rogers. To them, the air is getting dirtier while the oil remains in the ground, and no one is either winning or losing. Environmentalist Lane says, "We pay taxes to support these regulatory bodies — ARB, EPA and the local districts, and all they seem to be able to do as time goes on is to fight with each other. All the agencies themselves have become the 'middlemen,' the political conciliators, protecting their own existence. That would be all right if we as individuals could each drill and refine our own crude oil, and if we could each as individuals clean up the air. But these things take concerted, cooperative efforts by everyone involved, especially those bodies we elect or appoint to help us plan and move forward."

The question now is how eager the federal government is to get more heavy crude out of Kern County and what steps it will take to entice the oil companies into converting proven crude-oil reserves into on-stream refinery products. ♣

The Hispanic vote above the barrio

By MARTY COREN

It is a truism among political campaign professionals that Hispanics are "soft" votes and that it is hard to get them to the polls. Los Angeles, which has one of the largest Spanish-speaking populations of any city in the nation, has no one of Spanish heritage on the county board of supervisors, the city council, or the school board.

It is not surprising then to read an article in the *California Journal* (February 1979) quoting a Chicano activist saying, "All the talk about the Chicano 'sleeping giant' may in reality be a myth." What is myth and what is reality are questions still open to debate. But in the spring of 1978, the campaign for the 26th District Democratic nomination for state senator offered some insight into the issue.

Initial soundings indicated that San Gabriel Valley Assemblyman Joseph Montoya could defeat the incumbent, Senator Alfred Song, with major support from Hispanic voters. But their vote was considered "soft."

"I estimated 7 to 10 percent less turnout of the Hispanic population of the district (than actually voted)," says Montoya. In fact the Hispanics of the 26th Senate District did turn out in good numbers, as did all the voters of the district. With 38 percent Spanish-surname registration, the 26th District Democrats exceeded by 3 percent the statewide turnout for the 1978 primary. Montoya, the low spender, comfortably won a three-man race with 42 percent of the vote.

Montoya's election can perhaps be dismissed as a fluke. Certainly there were other important factors affecting the results: an exciting and heated campaign; a strong grass-roots effort; an incumbent tarnished by a grand jury investigation; and the large number of homeowners who turned out to vote for Proposition 13.

But one other factor seems significant: that the Hispanics of the 26th Senate District are largely middle-

class homeowners.

Pico Rivera, more than 50 percent Hispanic, is no barrio. It is a blue-collar community with well-kept houses. The hills of Montebello are alive with the sounds of the construction of new housing, as more and more upward-striving Chicano and Asian families move in. Montebello is almost 50 percent Span-



ish-surname. Monterey Park, with an average family income of more than \$18,000 a year, is 34 percent Hispanic.

Indeed, it appears that the San Gabriel Valley has become the path of the upwardly mobile Hispanic. And as their affluence has increased, so has their participation in the political process.

"The number one determination of voter turnout is socio-economic level," says Ricardo Nieto, manager of the Los Angeles office of the secretary of state.

Statewide, Nieto admits that Spanish-surnamed individuals vote about 3 to 4 percent less than the general vo-

ter. But if comparisons are made at the precinct level, the Spanish-surnamed voter tends to outvote the non-Spanish-surnamed voter by about 7 percent, according to Nieto. The key to the apparent disparity is that, as a group, Hispanic voters trail the general voting population economically, Nieto says.

The secretary of state's preliminary information is verified in a survey of 32 East Los Angeles and San Gabriel Valley precincts in the 24th and 26th Senate Districts for the 1978 general election. The precincts were selected to reflect different economic and geographic locations.

In the selected precincts, half the total registered voters were Hispanic. The total turnout in those precincts was 66.4 percent, compared to the statewide turnout of 70.6 percent. The easy conclusion would be a low turnout of Spanish-surnamed voters — yet Hispanic turnout exceeded general turnout, 67 percent to 65.8 percent.

Statistically, the difference is not significant, but politically, the results may be important. It suggests that time and energy spent on get-out-the-vote and registration efforts in more affluent Hispanic neighborhoods may pay off.

"Registration," says Assemblyman Richard Alatorre, "is the most important step. Basically, you have to overcome myths — that Chicanos don't register and Chicanos don't vote. Give them the reason and you can get them to vote."

Montoya agrees. "If you get Hispanics to register and get a pattern of voting established, then they will probably vote. There is an actual fear of going to the polls, of not knowing the procedures. A lot of Spanish-speaking people do not have the tradition of participating in government. They never have been involved before."

Every indication seems to suggest that once the Chicano starts to vote, he continues to vote, and at a better rate than the general voter. And when enough Chicanos start to vote, the myth of the sleeping giant may well become a wide-awake reality.

Marty Coren, former press secretary to then-Speaker of the Assembly Bob Moretti, is now a financial consultant in Los Angeles.

Lizarraga and TELACU-Hispanic political leaders at last?

By RAY GONZALES



Chicanos in California have never elected one of their own to a statewide office. Their representation in the Legislature — three assemblymen and three senators — has remained static for almost a decade. But in spite of their poor showing at the ballot box, Latinos are often described as the political “sleeping giant” of the future. Their increasing numbers, as a result of a high birthrate and immigration from Mexico and other Latin American countries, have already made the Hispanics the biggest minority group in California. Within the next few years they will constitute the largest minority in the United States.

With increasing numbers and some political gains at the local level, why have Hispanics failed in their quest for statewide office? By contrast, Asians in California constitute less than 3 percent of the population, but they hold two statewide offices, those of U.S. Senator S. I. Hayakawa and Secretary of State March Fong Eu. Blacks, with only 7 percent of the population, have had two statewide office holders: former Lieutenant Governor Mervyn Dymally and Superintendent of Public Instruction Wilson Riles. Hispanics have rarely been able to secure party nominations.

Money, unity, votes

There are at least three reasons for this:

- **Hispanics have lacked** real economic power and have been unable to provide financial support to candidates.
- **There has been little unity** in the Hispanic community. This often has resulted in the presence of two or more Hispanics running for the same office.
- **In terms of voting power**, Hispanics constitute more than 20 percent of the state's population. But in most

general elections they can be expected to produce only 5 percent of the vote.

Thus far, the best that Hispanics have been able to do in their quest for a statewide office was a fourth-place finish in 1974 in the Democratic primary for the office of secretary of state. In that year, well-known Hispanic leader Herman Silas, the current U.S. attorney in Sacramento, was outpolled in the race by March Fong Eu, Cathy O'Neill and Walter Karabian.

Political impatience among many Chicanos is becoming obvious, and it has resulted in a new approach in the quest for political power: the appointment process. Rather than waiting to register voters and working to get them to the polls on election day, some Chicano leaders have leapfrogged to the top by seeking appointments from President Jimmy Carter and Governor Jerry Brown. What the Chicanos have to offer such politicians is the promise that the “sleeping giant” will soon be on his feet and that they will eventually succeed in getting him to vote.

Perhaps the most effective Hispanic group in California in this regard is The East Los Angeles Community Union (TELACU), headed by David Lizarraga. A community development corporation little more than 10 years old, TELACU has developed considerable political clout within the Democratic Party. Among its success stories in appointive politics was the selection by President Carter of Esteban Torres, TELACU's founder and first president, as the permanent ambassador to the United Nations Educational, Scientific and Cultural Organization (UNESCO). Torres was appointed to the post in Paris just months after Carter's inauguration. In August Carter named Torres to a White House staff position dealing with Mexican-American affairs, replacing Joseph Aragon, a Los Angeles-area businessman who resigned in February.

Another former TELACU staffer; Gloria Molina, serves on

Ray Gonzales is a member of the state Public Employment Relations Board and a frequent contributor to the Journal.

the White House personnel staff which funnels background material and recommendations on political appointees to the president. And Roy Escarcega, current vice president of TELACU, has been appointed by Carter to the National Commission on Manpower Development.

Former TELACU employees have also done well with gubernatorial appointments. George Pla, former director of economic development for TELACU, was appointed deputy director of the Department of Business and Economic Development by Governor Brown. Pla also took a leave from his state post in 1978 to head up Brown's successful reelection efforts in Southern California. He is currently one of the most influential Chicanos in the Brown Administration.

Assembly Speaker Leo McCarthy believes that TELACU leadership is among the best in the statewide Chicano community. "TELACU President David Lizarraga is bright, unpretentious and tireless — all qualities that serve TELACU well," McCarthy says. "He could make the grade as a top business executive in the private sector with no problem . . . TELACU has opened up many opportunities for young Hispanics."

State Democratic Party chief Dick O'Neill concurs: "I think TELACU is one of the most dynamic Hispanic groups in California. They certainly have succeeded in their economic development endeavors, and this has had a tremendous ripple effect into the political arena."

How has TELACU reaped such economic and political dividends in such a short period of time? The answer may be found in what Pla calls "a damned good record of accomplishment in the area of economic development. People see that you can do a job so they are not afraid to take a chance on you."

Multi-million-dollar agency

The record for TELACU was built gradually. It was established in 1968 with financial backing from several labor unions, including the United Auto Workers. Starting as a run-of-the-mill poverty program of the '60s, it has developed into a sophisticated, multi-million-dollar economic development agency that receives funding from more than a dozen private and public sources.

Lizarraga and the leadership at TELACU have chosen to go the route of economic development rather than pursuing more traditional social-service programs. "Unless you start building an economic base, you will always be under the control of outsiders," says Lizarraga. "During the last 10 years our methods have changed but our motives have not . . . We want to affect people's lives by stimulating positive community change."

The blueprint for TELACU's move toward self-sufficiency was a master plan developed in 1974. Under this ambitious program, TELACU is now developing a \$32-million industrial park at the former 58-acre site of the B.F. Goodrich plant in East Los Angeles. Through the TELACU Investment Company, the organization boasts a portfolio that includes controlling interest in *Nuestro*, the leading Latino magazine in the country, and in the Blackfoot Indian Pencil Factory in Montana. It also controls several offices of the Community Thrift and Loan Company in the Los Angeles area, as well as several manufacturing companies.

TELACU's success and the translation of this success into political clout comes at a time when most other poverty agencies from the early '60s have either disappeared or have been plagued with poor management or corruption. Such was the case with the Greater Los Angeles Community Action Project, a Chicano health delivery program whose corrupt practices were exposed on a recent "60 Minutes" program.

TELACU has not escaped the suspicion of mismanagement.



Lizarraga and Friends

Recently rumors have begun to circulate that suggest a scandal may be brewing within the TELACU structure. The organization's leadership discounts the rumors, but some TELACU supporters are concerned. "They may be moving too fast, doing too many things and not developing an adequate management team to carry out new projects," comments one close associate of TELACU.

Some eyebrows also have been raised about the close association of TELACU officers with political operatives within the Democratic Party. Since the corporation receives a significant amount of federal funding, any trace of this money being used for political purposes could produce a scandal of major proportions. It has also been suggested by one banking official that TELACU's recent request for a multi-million dollar loan to purchase a Hilton hotel may have been turned down because of TELACU's excessive involvement in Democratic Party politics.

Yet TELACU leadership continues to play an ever-increasing role in Democratic politics. Attorney Ralph Ochoa, former top aide to Assembly Speaker Leo McCarthy, heads the law firm of Ochoa, Holderness, Barbosa and Crook which does legal work for TELACU. Ochoa feels that "Lizarraga is one of the most aggressive Chicano leaders in the state. There is no end to the kind of impact he, as an individual, can have on Chicano politics and Democratic politics in general."

High-level contacts

Lizarraga, 35, is known on a first-name basis by President Carter, Vice President Mondale, Senator Ted Kennedy and Governor Brown, to name a few. He has effectively combined the knowledge acquired as a barrio poverty worker in the '60s with recent high-level contacts in the business and political world. As a result, President Carter named him to the National Commission on Neighborhoods; Governor Brown appointed him to the State Advisory Council on Business and Economic Development.

But his most important political post was acquired when he was elected by acclamation as southern chairman of the Democratic Party at last year's state convention. No Chicano had ever held the position before, but Lizarraga won it unchallenged. What the TELACU crew had done was obtain pre-convention endorsements for Lizarraga from such notables as Chuck Manatt, chief fund-raiser for the national Democratic Party; Howard Berman, Assembly majority leader; Los Angeles County Supervisor Ed Edleman; Congressman Julian Dixon; Yvonne Brathwaite Burke and many others. Lizarraga's broad-based support from the black, Jewish and Chicano communities in Southern California, added to the endorsements by Senator Cranston, Governor Brown and Mayor Tom Bradley, guaranteed that no one else had a shot at the post.

George Pla, then vice president of the TELACU organization, describes the degree of political sophistication demonstrated by the TELACU people when they went after the post: "I remember in 1976 Lizarraga and I had gone to Sacramento to observe the state Democratic convention, to prepare ourselves for any involvement that we might want in 1979. We observed how the Democratic convention functioned and how people got elected and we looked at each other and felt that it was a piece of cake. We found out who the shakers and the movers were within the party and we planned for two years. Then we went to the people that called the shots in those conventions, told them of David's interest in wanting to be southern chair and we negotiated people out of the race and, consequently, ran unopposed."

The national push

Paul Idiker, a political consultant in Southern California who does most of the public relations work for Democratic party chief O'Neill, concurs with Pla's version: "Nobody was as well organized . . . knew the mechanics as well as the TELACU people. They had things well oiled and put it together long before the convention." Idiker believes that Lizarraga and crew represent a new era in Chicano politics. "The sophistication level is much higher than it's ever been, as demonstrated by the way they put together Lizarraga's election."

The post of southern chairman will be important next year during the presidential election. But of even more significance is the fact that Lizarraga, who serves on the National Democratic Committee, is the national chairman of the newly formed Hispanic-American Democrats. This group claims "to represent the political needs of some 20 million

Chicano, Puerto Rican and other Latino Democrats within the national party."

As a delegate to the mid-term Democratic National Committee conference in Memphis in 1978, Lizarraga mobilized this Hispanic group to push for a more significant role within the Democratic Party. Both President Carter and Governor Brown, who will likely face each other in next year's primaries, are vying for the Latino vote. Soon after the Memphis convention, Carter chose Lizarraga to accompany Joan Mondale on Air Force One as part of the delegation that attended the inaugural ceremonies of the newly elected President Luis Herrera of Venezuela.

Given the close association TELACU has with both the Carter and Brown administrations, it will be interesting to see which way the organization leadership will swing in 1980. More than likely they will maintain contact with their former associates in both camps. Currently, the corporation owns a townhouse in Washington that is used by TELACU officers who are often in the nation's capital for business and political contacts. In Sacramento, TELACU has such former associates as Pla, Ochoa and Xavier Mendoza on the scene, keeping informed on the movements in state politics. It is not likely that any serious Democratic candidate for statewide or national office will fail to touch base with the TELACU leadership.

For the present time, TELACU's major success is in gaining appointive positions in government for Latinos. But by 1982, David Lizarraga may be a candidate for state party chairman. That may also be the year that a Chicano candidate for statewide office is added to the Democratic slate. But if Chicanos are to succeed politically, TELACU must expand its base through voter education and registration. The appointment process is, after all, very limited. What will happen when a Republican administration takes over? Even though Lieutenant Governor Mike Curb's top Chicano aide, Al Zapanta, is a former TELACU official, it is not likely that he will be able to deliver many Chicano appointments, since Chicanos traditionally veer toward the Democratic Party.

Indeed, TELACU's endeavors in the appointments arena may have reached their maximum potential. Lizarraga and his organization will have to exert pressure within the Democratic Party for ongoing voter registration among Chicanos, rather than the traditional token efforts made during election years. Only then will the 20 million Hispanics in the United States begin to call their own shots, rather than having to stand in line waiting for the appointment largesse of governors and presidents. 

The one-dollar bargain: back issues of TAX REVOLT DIGEST

Back issues of **Tax Revolt Digest**, the Proposition 13 newsletter, are now available from the **California Journal** for \$1 each.

Tax Revolt Digest is the best source of information and analysis on the impact of Proposition 13 and similar measures across the country. Here is a partial list of major articles included in past issues:

January — Special-district victims of 13. Major cuts in library budgets. How the Idaho law isn't working.

February — The outraged citizenry of Illinois. How can California pay rising health bills?

March — Did Brown hamper convention call? Park and recreation budgets slashed. Local government's first year under 13.

April — Gann's "Spirit of 13." Minorities and the arts.

May — Voluntary agencies fight for survival. Jarvis' new tax-cut proposal. Proposition 13's impact on

fire departments.

June — Cities find pension loophole. How Proposition 13 affected law enforcement.

July — Women lose ground under 13. Preserving California farms. Rent control gaining ground.

August — The long-range bailout plan. Higher bus fares and more potholes. What Proposition 13 is doing to property taxes.

September — Tennessee, where the '78 tax revolt started. Contracting out governmental services.

A complete year of **Tax Revolt Digest**, including all back issues, is \$15. A half-year, starting with the May issue, is \$8. Each monthly newsletter or special report is \$1. Send checks (or Visa or Master Charge number) to **Tax Revolt Digest**, c/o **California Journal**, 1617 10th St., Sacramento 95814. There is no sales tax.

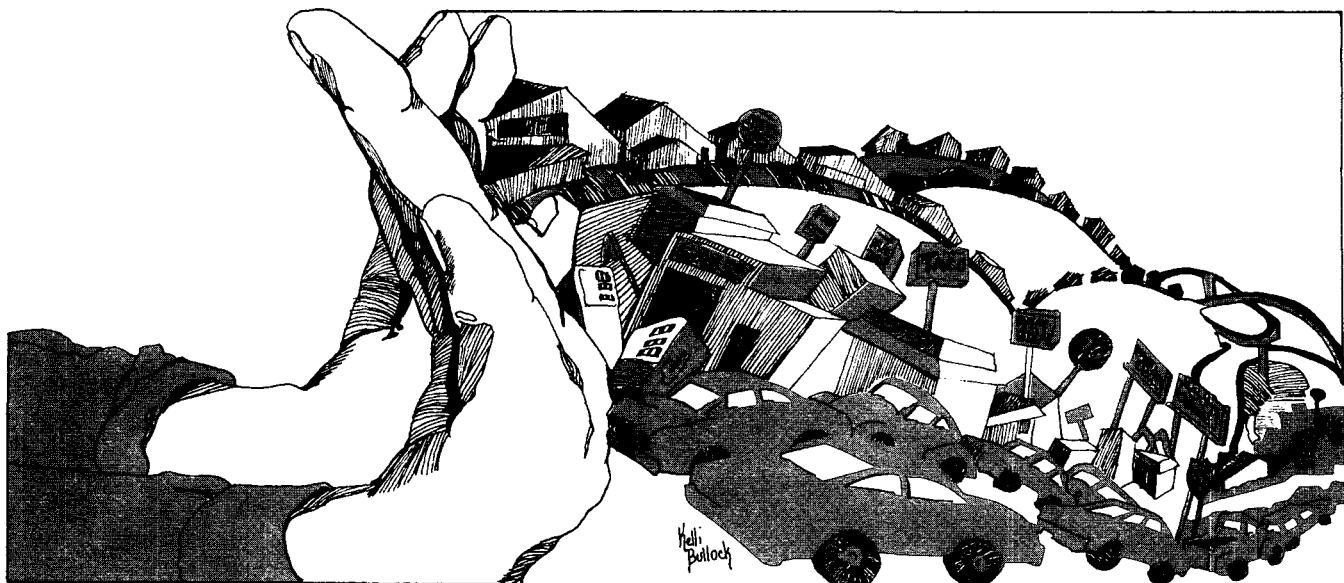


ILLUSTRATION BY KELLI BULLOCK

BURGER KING VERSUS THE JOLLY GREEN GIANT

Why Santa Barbara voted 'no' on state water

By JERRY RANKIN

A scene from the movie *Butch Cassidy and the Sundance Kid* offers as good a description of Santa Barbara County voters as any. As Butch and the Kid are escorting a grizzled old American miner in Bolivia down a bandido-beleaguered trail, he wryly remarks to them that after so many years in South America, "I'm not eccentric — I'm just colorful."

Millions of water-conscious Californians will be pardoned if they view the voters of Santa Barbara County as at least colorful, probably eccentric and possibly suffering from water on their collective brain. For in a March election little noticed outside the county, Santa Barbara voters became the first in history to reject importation of California's liquid gold — water — and by almost a 75 percent margin.

This, in a county where three water districts have bans on new water hookups, helping produce possibly the worst housing shortage anywhere in the state; where experts predict eventual severe water shortages in some areas; and where residents of suburban Goleta Valley were subjected to fines for violating strict water conservation regulations during the drought two years ago.

To top it off, these same voters had already paid more than \$5 million to buy their right to the water they finally rejected. And they are still paying \$700,000 annually in property taxes for rights to that unwanted water.

While the results might pose a puzzle to outsiders, they serve once again to affirm that whatever the obstacles faced by environmentalists elsewhere, the dominant factor in this county's politics remains preservation of the blessings with which it has been endowed by nature. "Sloooow growth" is

the operative phrase in government and, in case the bureaucrats and elected officials don't have the message, voters have emphasized it in several recent elections.

A startling margin

The water importation vote was widely considered the most important in the county's history. At the end of the campaign, it became evident the opposition (not anti-water, but anti-state water) would win. However, the startling 72 percent margin of rejection amounted to a bucket of cold water in the face of developers and real-estate interests which make money from growth, and to the average citizens who felt state project water was their only guarantee of reliable supplies for the future.

Santa Barbara County voters were voting on Measure A, which would have authorized up to \$102 million in revenue bonds to build a distribution network in the county for state project water. The network was to have hooked up with a state aqueduct branch in San Luis Obispo County in the 1980s. (That branch isn't built. Voters there narrowly approved state water last year, but rejection of the project by their neighboring county now raises the question of whether San Luis Obispo County alone can pay the cost of getting state water into that county.)

While the environmentalists have won most of the recent battles, the war still continues. Substantial growth is occurring in the Orcutt area, next door to Santa Maria. County planning commissioners just approved the first multi-family residential development (16 units) in the five years that the water moratorium has applied to the 70,000-person Goleta Valley just northwest of Santa Barbara. And the Solvang area, which lives off tourists, is locked in a bitter battle over

Jerry Rankin, a former Associated Press reporter in the state Capitol, is now a political writer in Santa Barbara.

more parking and over growth in general.

Now the county is being courted by thirsty and rich suitors from the parched Central Valley. They want to buy the capacity that Santa Barbara County reserved in the state project pipeline 19 years ago, or its entitlement to the water — or both.

Representatives of the Berrenda Mesa water district in Kern County told Santa Barbara County supervisors recently they want to lift that \$700,000 annual burden still carried by Santa Barbara County taxpayers. They've even suggested they would consider reimbursing some of the \$5 million already paid. Several other users of state water are wooing the Santa Barbara supervisors, too. But complex problems remain, and some of the supervisors are particularly reluctant to legally let go of that 57,700 acre-feet still on reserve, still being paid for. The reason isn't a plot to thwart the will of the voters, but a new state program by which the state will help those with water entitlements to finance local water projects — if they maintain a state water entitlement equal to the size of the local project.

In addition, there is some question whether the county actually can sell its water entitlement. It may take a lawsuit to resolve the matter.

The large corporate growers outside of Santa Barbara County didn't disguise their thirst for its water. Berrenda Mesa growers contributed \$2,500 to the anti-water forces, and another Kern County grower threw in \$5,000, saying he did it not in self-interest but for "environmentalist" reasons. In all, 32 percent of the \$57,000 spent by the combined opponents was collected out of the county.

Ho-ho-ho to water

The anti-water forces were led by a cadre of veterans of past growth-ballot wars and a \$200-a-week, 22-year-old Los Angeles campaign manager, Dennis Orfirer. They raised far more money than originally anticipated. About \$12,000 came at the last minute from a separate organization of downtown Santa Barbara developers — who personally like the area the way it is and who would have suffered economically from competition by suburban business growth that state water would have allowed. Their money paid for production of short but sharp anti-water TV spots, with professional help from Los Angeles production people who had lived in Santa Barbara. The ads featured county resident Andy Romano, nationally known as the voice of the Jolly Green Giant and recognizable from many TV commercials.

Proponents of state water deposited \$67,000 into the hands of Ken Rietz, a veteran of campaigns for Richard Nixon and Gerald Ford and director of Evelle Younger's campaign against Jerry Brown. Ironically, Rietz's wife Angela provoked a bitter local controversy in this period when she hired a former city planning director to ramrod through approval of a controversial Burger King outlet she owns on a busy street in a traffic-clogged area. Although legal, the record-time maneuver produced a furor. It helped defeat, in the same election, a pro-growth city councilman who was one of only two candidates supporting state water. And it played a major role in the eventual banning of all new drive-through businesses in the city.

Rietz, who lives in Santa Barbara and has opened an office there, didn't even mention the word water in his committee name — Citizens for Quality. Voters found themselves facing the same pitch from both sides — voting the wrong way would destroy the quality of life residents of all political persuasions so cherish.

In a letter to voters, Rietz's pro-water camp even quoted a famous environmentalist to make their point: "Those of us who appreciate the quality of life in Santa Barbara County really do want to keep it. Jacques-Yves Cousteau may have been speaking for us when he said 'There is no life without

water. No quality life without quality water.'"

Rietz's staff also hauled out again what some local campaigners still seem to regard as the ultimate weapon — Proposition 13. They warned: "Aren't you tired of politicians trying to scare you? Remember what they said about Proposition 13 — the distortions, exaggerations and half-truths? Now, they are trying to do the same thing with water."

But the opposition also conjured up its own group of unnamed "theys" and "politicians" to frighten voters with: "Why are the politicians hiding the true cost of state water? They don't want you to know that state water will double and triple your water bill." And the foes scored a coup early in the campaign when the local son-of-Proposition 13 group, Tax Watch 13, declared its opposition to state water.

Sorting out the truth

The voters, trying to sort out where truth rested, also found both sides using the same argument on cost. Those in favor asked, "Why should we spend 15 years paying for a state water project and then not use it? That doesn't make sense." They also stressed a point technically true but grossly misleading to the unwary voter: "The bonds will be repaid only by those who use the water." True, but it didn't mention that most water agencies had committed themselves to the state water and those same voters were the water users who would pay the bill.

The anti-water forces relied heavily on an argument with statewide implications — the project couldn't actually deliver the water it promised. They pointed out that the system is contractually obligated to eventually deliver 4.2 million acre-feet of water a year, but that current capacity is only 2.3 million in a year of normal rainfall. The Peripheral Canal would boost capacity by just 1 million more, still short. They quoted Herb Benham of one of the generous Berrenda Mesa farms: "The last drought nearly finished me off. They cut back 60 percent on state water we thought we had. Can you imagine another drought year with all of us counting on the same water supply?" Supporters never convincingly countered the reliability argument.

The uninspired performance of Rietz's firm pleasantly



ILLUSTRATION BY KELLI BULLOCK

surprised the water foes and disappointed many of its supporters, but even the sharpest campaign probably couldn't have overcome the message carried in an anti-water flyer to all voters. Picking it out of the mailbox, a voter saw two pictures — one of a serene rural setting, the other of a jammed freeway. The message was simple: State water means growth, which means the destruction of Santa Barbara As We Know It.

The biggest fear

And that is still the single most effective political argument with the largest group of voters, particularly in the Santa Barbara-Goleta area with 68 percent of county registration. Playing on the very tangible fear of becoming "another Los Angeles" or "another San Fernando Valley" is surefire political coin in Santa Barbara. Its voters may be charmed by the Los Angeles that Jack Smith portrays in the *Times*, but they know only the harsh reality of the tense, choking drive down to LAX.

While county voters turned off the tap of state water for good, water still was a winner in the Goleta-Isla Vista-University of California campus area. A \$6.6 million wastewater reclamation project passed easily. And plans are under way to increase the local water supply everywhere through more wells, capturing wasted water, increasing the capacity of dams through removing built-up silt and greater sharing of the water table.

Opponents of the water measure are convinced that the outcome has statewide impact; that, if nothing else, it raises serious questions the state must answer about the ability of the project to deliver what it promises. State water supporters tend to view the result as just another regrettable Santa Barbara aberration pushed by anti-growth elitists who have a good thing going and don't want to share it with anyone else.

The water election had major impact on the Santa Barbara City Council election held the same day. Of eight candidates for the three seats on the seven-seat council, the only two who backed state water, Police Chief Al Trembly

and Councilman Bud Eyman, were crushed. Yet, they spent an all-time record for a council race, \$27,000 each, most of the money coming from developers and business interests who generally backed the water bonds.

They were opposed by a new citizens' group called the Committee for a Responsible Council, prodded along by environmental activists who stayed in the background. Much of the committee's support sprang from homeowner anger over traffic congestion resulting from increased business development, and Mrs. Rietz's Burger King came to symbolize opposition to Eyman and Trembly.

It was in the Burger King area, where most of the city's Republicans live, that the turnaround in voter sentiment was so dramatic. Eyman, a conservative Republican four years earlier had won 5 of 10 precincts in the area and finished in the top three in all. This year, with voters angry about Burger King and similar projects, Eyman won none of the precincts, finishing fifth at best in a few.

The smashing victory of the committee slate produced a 4-3 environmentalist council majority that is putting the brakes on unrestricted commercial development and generally pleasing environmentalists and homeowners.

A liberal bastion

Santa Barbara remains a bastion of liberal Democratic and environmentalist politics among California cities. For example, while the county narrowly supported Ford for president in 1976 and Hayakawa for Senate, the city was backing Carter and Tunney.

And city officials, seemingly unacquainted with recent election results and the mood of the voters, even tried to win passage in March of a proposition to allow the council to consider selling five tiny, seldom-used parks, said to be the first attempt ever to sell parkland in a California city. Eighty percent of the vote rejected that idea.

The city council election also amounted to a backlash at what some called "Orange County politics." Tom Glass, a Santa Barbaran now working in Republican-conservative elections in Orange County with occasional forays back home, launched an Orange County-style last-minute blitz of computerized "personal" campaign mailings on behalf of Eyman and Trembly.

Undoubtedly aware that Santa Barbara supported Proposition 13 by an even heftier margin than the statewide average, Glass invoked the spirit of 13 in the letters, portraying his men as Jarvis-Gann true believers and the opposition as anti-13 spendthrifts. But most local observers felt the maneuver was not in the Santa Barbara "style." (Local Assemblyman Gary Hart was one of the few Democratic targets of a similar Proposition 13 letter to survive last November.) The Long Beach postmark on the letters didn't go unnoticed in a lot of households, and the backlash helped to defeat Eyman and Trembly.

Santa Barbara County voters still show signs of schizophrenia at the polls, but the environment-oriented attitude in the Santa Barbara area is spreading north, election by election. Voters in the Lompoc and Santa Ynez Valley-Solvang area now find themselves with more in common with Santa Barbara than the increasingly isolated Santa Maria area, and a movement is under way to put a growth-management proposal before Solvang-Santa Ynez voters.

Just as they rejected state water this year, county voters last November finally laid to rest the idea of splitting the north and south into two counties. Many of the same business-development interests that backed state water bankrolled the "Los Padres County" proposal, but it was walloped 78-22 percent.

After the March election, one happy environmentalist suggested Santa Barbara County's state project water entitlement could be sold to the nonexistent Los Padres County. 🏠

The Mystery of the '79 Roster

We don't know why, but there has been an unprecedented demand for the **California Journal Roster and Government Guide** this year. Two printings of the 1979 edition have already sold out, and the third is moving rapidly. We recommend that organizations planning to use the Roster order now to guarantee an adequate supply.

There is no better way to distribute basic information on California government and politics to the membership of an organization than through the **California Journal Roster and Government Guide**. And they still cost only 25 cents each when bought in quantities of 100 or more.

The 12-page pamphlet contains the names and numbers of all the key players in the California political game, including members of the California congressional delegation, as well as the composition of legislative committees, a legislative process chart — and much more.

Rates: 100 or more copies, 25 cents each; 40-99 copies, 30 cents each; 2-39 copies, 40 cents each; single copy, 75 cents. Please add 6% sales tax to all but single-copy orders.

Send your check (or Visa or Master Charge number) to the **California Journal Roster**, 1617 10th St., Sacramento 95814.

Revolt of the renters in once-staid Santa Monica

By MARK FORSTER

The rent-control fever that swept through California following Proposition 13 hit hardest in Santa Monica. There a coalition of tenants and community activists pushed through the state's first rent-control initiative, after a bitter struggle with the local conservative establishment.

The success of rent control in Santa Monica represents the most significant exercise of political power by tenants in California. The idea has been around at least since 1970, when Berkeley approved a measure that was later voided by the courts as unconstitutional. But now tenants form roughly 48 percent of California's population, and they are feeling the economic pinch that provides the impetus for rent-control movements. Inflation continues to drive up rents while keeping homeownership out of reach for most tenants. After Proposition 13 failed to provide renters with the same relief that it did property owners, various movements toward rent control or rent relief materialized in cities from San Francisco to San Diego.

In Southern California, tenants made their anger and frustration especially clear. Cities as diverse as Beverly Hills and El Monte, as well as Los Angeles city and unincorporated county areas, approved moderate, limited rent-relief legislation. But it was in Santa Monica that tenants staged a major renters' revolt against high rents, condominium conversions and evictions. By 53 percent of the vote, Santa Monicans approved last April a tough rent-control initiative that unlike legislated rent relief, created an elected five-member rent-control board with sweeping powers over housing issues.

A simmering feud

The election also spotlighted a political feud that has simmered for several years in the seaside town better known for its quaint pier and the high volume of celebrity divorces at the local courthouse.

On the right sits the longtime establishment of Santa Monica's business and real-estate interests that once made the city a conservative Republican bastion. Although local Republican power has faded in affairs outside Santa Monica, the city fathers have kept a tight rein on the city council and commissions and have pursued an almost uninterrupted policy of growth.

On the other side is a politically mixed, moderate-to-left coalition of young and elderly tenants, minorities, blue-collar workers and community activists. This coalition has made the city a safe Democratic haven in state and national elections, but traditionally it has remained dormant in local politics. Although interested in "quality-of-life" issues such as the environment, housing and social services, this group generally conceded local elections to the control of businessmen, realtors and homeowners who liked to say they had "a vested interest" in Santa Monica.

Mark Forster is a staff writer for the Los Angeles Times.

But the political establishment was severely shaken in the recent rent control and city council elections, and in the subsequent election of the newly formed rent board. Ruth Yannatta Goldway and Bill Jennings ran as a pro-rent-control slate, backed by a tenants' coalition including Santa Monica resident Tom Hayden's Campaign for Economic Democracy. They outdistanced by 2,000 votes their nearest competitors in a 12-candidate field for seats on the city council.

Although tenants make up 80 percent of the city's 94,000 population, Jennings, an attorney and former president of the local Democratic Club, became the first renter ever elected to the council. Goldway, a homeowner and consumer advocate, became the first council member in recent memory from the apartment-heavy Ocean Park area (90 percent apartments) on the city's south side.

Inmates & foxes

Then in June a pro-tenant slate was elected to the rent board, and it assumed control over rent levels, condominium conversions, rental housing demolitions and evictions. The sudden change in the city's political profile left a residue of rancor and distrust that is not likely to evaporate soon.

"It looks like the inmates are guarding the institution," said John Jurenka, a former president of the local apartment owners' association and an unsuccessful anti-rent-control council candidate after the rent-board election.

"It's better to be an inmate guarding the institution than (have) the fox guarding the chicken coop, which is what the

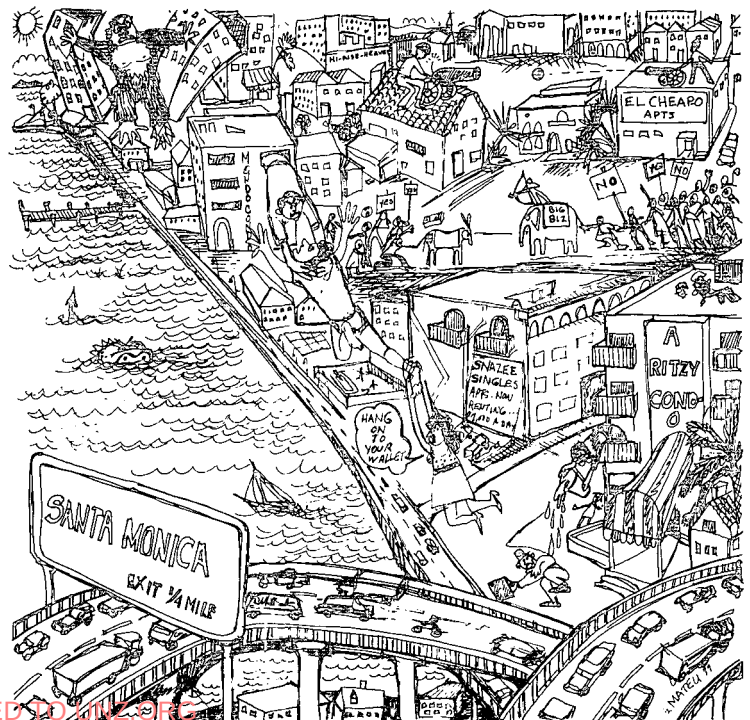


ILLUSTRATION BY GRACE MATEU

landlords have been doing to the tenants," replied Gerald Goldman, a rent board member and attorney who has represented Cesar Chavez' United Farm Workers and the United Auto Workers.

Such verbal potshots were mild compared to other events that followed the rent-control elections. For example:

- **The interim rent board** had to be escorted out of City Hall under police guard when 400 irate landlords overflowed the meeting room, hooted at the board's actions and refused to comply with fire laws regarding occupancy.

- **A tenant activist** filed an assault charge against a landlord who allegedly slapped her at another rent board hearing.

- **The pro-rent control** coalition notified the FBI about repeated death threats made against the Legal Aid attorney who drew up the rent-control initiative.

- **After the rent board** refused to appoint the interim staff director to that post full-time, the director, Sheila Smith, resigned and charged the board with contributing to "an atmosphere of hate" between landlords and tenants.

Seeds of discontent

For a normally staid community, the turmoil over rent control was unprecedented. Yet the seeds of discontent had been planted in the 1960s. During that period in Santa Monica, land was cheap, interest rates were low and nobody had yet heard of the Coastal Commission. Businessmen and realtors, who doubled as the city fathers, found lucrative investments in apartment construction. Between 1960 and 1972 — when the city's first condominium was constructed — investors erected 1,400 new apartment buildings, representing close to 14,000 units of the city's current 36,000 units. An already high renter population of 64 percent in 1960 went to 80 percent by 1973.

The people who moved into those apartments were far from the conservative, homeowners Santa Monicans who sat on the city council, sent Republicans to the state Legislature and supported Barry Goldwater over Lyndon Johnson in 1964. The plentiful supply of affordable housing in a coastal community attracted students attending nearby UCLA as well as minorities, elderly persons and blue-collar workers escaping the smog and congestion of other parts of Los Angeles. This influx of traditional Democratic voters changed the political complexion of the city during the 1970s. In 1971 the city had a majority Republican registration, but by 1977 Democrats outnumbered Republicans by 11,000 registered voters.

The new residents' political strength, however, only showed in state and national elections. Due in part to their transient nature, tenants showed little inclination toward involvement in local issues. By default, the local power remained in the hands of conservative downtown business leaders, the real estate interests and the city's northside homeowners.

In 1974, state reapportionment pulled Santa Monica out of a conservative coastal district and inserted it into a predominantly Democratic district extending further inland around West Los Angeles and Beverly Hills. After that, running as a Republican from Santa Monica became a sure-fire step toward political extinction. Republican Assemblyman Paul Priolo, a former Santa Monica photo and sound equipment salesman, was elected to the state Legislature in 1966 with the backing of his colleagues on the Santa Monica Chamber of Commerce. But with reapportionment in 1974, Priolo left his political hometown and moved farther north to run from a more conservative district encompassing Malibu and a large chunk of the San Fernando Valley.

Congressman Robert Dornan, the only Republican still to represent Santa Monica, survived a close re-election bid in 1978 against Democratic neophyte Carey Peck, thanks

mostly to a strong GOP base in the southern part of the 27th district around the Palos Verdes Peninsula.

Saving the pier

On the local level, too, signs of change began to appear. In 1972, more than 60 percent of Santa Monica voters approved Proposition 20, the California Coastal Act, which created the state coastal commission. The next year the city council approved plans to tear down the city pier, a local landmark, and erect a man-made, off-shore island with a 35-story hotel. In the resulting uproar, three anti-pier council members lost their seats to three pro-pier candidates from a more moderate wing of the city establishment. The pier remained standing and the pier vote is considered the opening salvo against business-interest control of Santa Monica.

In 1978, the activists chose rent control as the issue that tenants would rally around. By then new apartment construction had dwindled to almost nothing, with the city's eight square miles almost completely developed. Rent levels were creeping higher and higher as demand for coastal living outpaced supply.

The city's first rent-control initiative failed. It appeared on the ballot with Proposition 13, which brought conservative homeowners to the polls and promised tenants that 13 would lead to rent reductions. In addition, the haphazard, grass-roots rent-control campaign proved no match for the professionally run, \$250,000 anti-rent-control campaign.

But after the initiative was defeated, the promised rent reductions failed to materialize. Instead, rent hikes and evictions followed, and the "dead" issue of rent control in Santa Monica made a Lazarus-like return.

Backhanded help

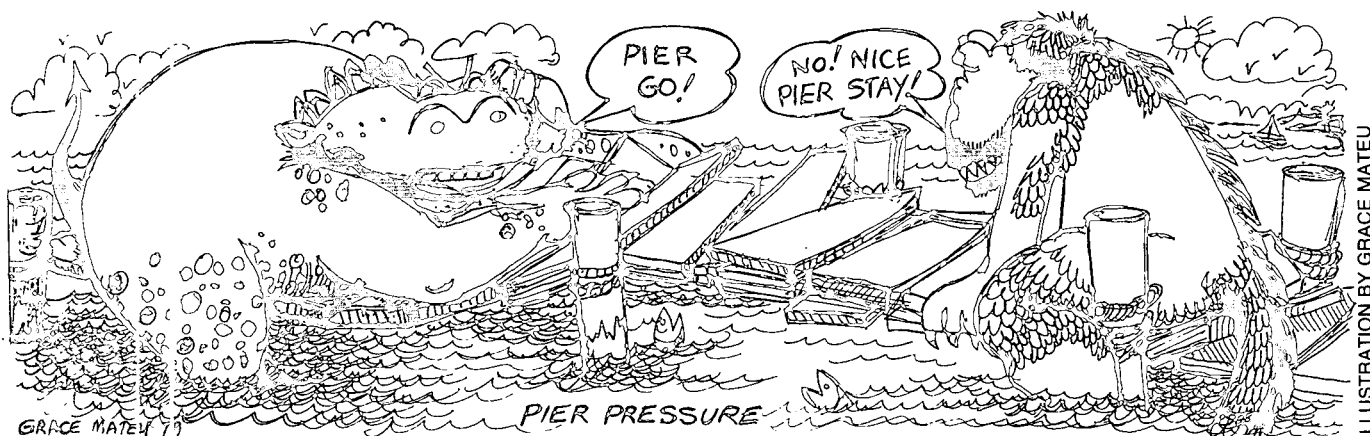
The second time around, rent-control supporters were better organized and better financed. They also received a backhanded assist from the city council which refused to consider any form of rent relief despite repeated pleas from tenants who packed a series of council meetings. On the council at that time were seven homeowners, including a banker, a realtor, several landlords and several businessmen. While the council denied there was a problem and insisted no action was needed, the planning commission was approving requests to convert 3,000 apartment units to condominiums in the year prior to the second initiative. In the three months before the election, landlords took out demolition permits to tear down 125 buildings with 600 residential units, more than twice the number of units approved for demolition in the entire preceding year. The anti-rent control forces raised another \$250,000 (compared to \$30,000 for the pro-control campaign), but Santa Monica's second initiative passed by about 2,000 votes.

To leaders of the tenant movement, the rent-control victory and winning two city council seats represented first steps toward a city government more responsive to Santa Monica's political and demographic makeup.

"The activists and progressive forces in the city have a definite sense that the city council and school board ought to represent the city as a whole," said Reverend James Conn, a 35-year-old minister at the United Methodist Church in Ocean Park and one of the prominent community activists.

But renters still face problems solidifying their gains in Santa Monica. The political establishment, shaken by its defeat, is neither dead nor eager to compromise. "We're not out of the driver's seat necessarily, but we don't have complete control anymore," says James Mount, a local architect and Chamber of Commerce president.

The political battle will be unresolved at least until the next city council election in 1981, when four homeowners council members are up for re-election. The community activists must keep renter interest in local affairs alive if they



intend to cement their gains. A test of the staying power of the tenant movement will come in November. The anti-rent-control forces have collected enough signatures to qualify for that ballot an initiative that would virtually cripple rent control. Under one of the modifications on the initiative, the annual rent hike would be tied to the Consumer Price Index increase or decrease. Recently, the CPI has been running between 9 and 10 percent, while the rent board granted a 7 percent increase in rents.

A more critical change, however, is a section in the initiative which calls for vacancy decontrol. This would remove any apartment from rent control once its tenant moves out. With normal tenant transiency, rent control would simply atrophy under such a provision, control advocates say.

Startup problems

Rent control is facing other serious challenges in getting off the ground:

- **Haste and confusion.** City administrators and rent-control staff members complain that the initiative mandated impossibly short time frames for carrying out a complex and controversial program. Thirty days after passage of the initiative, an interim five-member rent board had to be appointed by the city council. Within 60 days, all of the city's apartments had to be registered. Just as the interim board settled in, a permanent board had to be elected, three months after the initiative passed. After the election, only two of the interim board members stayed on the permanent board. And four months following passage, the new board had to oversee a rent rollback and to decide on rent increases for landlords if it felt they were warranted.

The hectic, frenzied pace left nerves frazzled in City Hall, angered landlords and frustrated rent-control supporters. The system fell behind even before it got started. Registration is still at about the 60 percent level, several months after the original deadline.

- **A partisan board.** Part of the problem arises from a unique aspect of the Santa Monica rent law: The rent board is elected, unlike all other rent-controlled cities where board members are appointed and seats distributed among landlord and tenant representatives. This has resulted in a highly politicized board of five pro-tenant representatives. Already angry and suspicious, the landlords became more so following the rent board election.

"It's a comprehensive law, and sanctions against the landlords create a tremendous amount of antagonism," says former rent staff director Sheila Smith, who was supported by many landlords. "Had the whole structure more credibility with landlords, if people on the elective board reflected their views, there would have been more compliance."

- **Petitions and disobedience.** Under the initiative, either landlords or tenants can petition for individual hearings on rent adjustments. Should a large number of petitions be filed, it could swamp the hearing officers hired by the rent board. Monitoring the rent rollback is left up to

tenants, and wide-scale disobedience by landlords could overburden the city attorney's office in pursuing complaints. But Renee Gould, the rent board chairwoman, is optimistic. "Actually, implementation has been pretty phenomenal," she says.

One bright spot has encouraged rent-control supporters. Los Angeles Superior Court Judge Laurence Rittenband recently denied an injunction seeking to nullify provisions of the ordinance. Rittenband has also told landlords that the rollback provision is legal.

Beyond the legal issues lie a number of questions, including the effect of the measure on the city's housing. Bankers and realtors say that investment money has dried up in Santa Monica and that anyone with money is wary of purchasing in the city until the rent law and the drift of city politics are clearer.

Almost everyone agrees the measure is of no consequence to new apartment construction. Such construction is specifically exempted under the law, and new apartment activity has been very limited in recent years anyway.

Will rent control in Santa Monica prompt similar movements around the state? Other cities may follow suit, but there is little likelihood that tenants will get action out of the state Legislature. A bill that would have pre-empted rent control on the local level, heavily supported by the real estate industry, was vetoed by Governor Brown. Last spring, two Democratic legislators from Santa Monica, Senator Alan Sieroty and Assemblyman Mel Levine, introduced joint legislation for "just-cause" evictions. Sieroty's bill died in committee; Levine's version is still in committee.

Losing faith

The Santa Monica rent-control experience does hold two lessons for the state Legislature and for other cities with high tenant populations. Some rent-control opponents now wish the Santa Monica council had passed some form of moderate rent relief to avoid the stricter controls imposed by initiative. In neighboring Los Angeles, landlords are operating under a loophole-ridden rent-relief law that has vacancy decontrol and provides for rent raises depending upon the date of the last increase. The rent law may not be pleasant for Los Angeles landlords, but their counterparts in Santa Monica are operating under much tighter restrictions.

The second lesson was taught a year ago with Proposition 13: When voters lose faith in their elected representatives' ability to rectify a problem, they turn to the initiative process to achieve their ends.

Meanwhile, California's tenant population of about 11 million continues to grow both from out-of-state migration and from renters unable to move into homeownership because of skyrocketing costs. If tenants feel overburdened by rising rents and frustrated by unresponsive lawmakers, they may band together to pass a Proposition 13-like measure of their own. After all, if homeowners can spell out their own relief, why can't renters?

State to feds: 'Same time next year'

After flexing its muscles by overriding a series of Jerry Brown vetoes, the state Legislature wasn't about to be told what to do by the federal government. In August, Douglas Costle, administrator of the federal Environmental Protection Agency, served notice on California that the EPA will halt approval of any major new industrial plants in the state until the Legislature adopts an annual vehicle-inspection program.

Chairman John F. Foran of the Senate Transportation Committee responded by placing a smog-inspection program before his colleagues with the support of the state Air Resources Board. But the Senate, hardly enthusiastic about the imposition of a \$50-60 annual checkup-tuneup charge, was hesitant to comply with Costle's wishes. Instead, the Legislature adopted a resolution by Senator John Briggs urging that the ban on emission-producing plants be lifted and promising that the Legislature will adopt an inspection program next year. The resolution also called for a study to determine the best way to conduct the inspections.

During debate, Senator Robert Presley from smog-ridden Riverside County pointed out that the Legislature has repeatedly refused to require inspections and there is no guarantee that any legislation will be passed next year. "If I were the EPA, I would throw this (resolution) into the trash can as

soon as I got it," he declared. California is one of 29 states under order to require inspections; only five have done so.

Other developments with only a few days remaining in the Legislature's usual end-of-session crush:

• **Governor Brown** vetoed a bill by Senator Robert Nimmo (SB 504) which would prevent a farm union from expelling a member for any reason other than non-payment of dues or initiation fees. Cesar Chavez' United Farm Workers now can expel members for failing to contribute to a political action fund (or to a charity). Brown said he saw no reason for the bill and that "it appears from the record that the rights of individual workers are being vigorously protected."

• **Law-and-order forces** won a major victory by pressuring a bill doubling penalties for sex crimes out of the Assembly Criminal Justice committee. The maneuver led to rumors that Assembly Speaker Leo McCarthy might be removed by a coalition of Republicans and conservative Democrats. McCarthy took steps to bring Democrats into line.

• **Legislators approved** a bill raising their salaries from \$25,555 to \$28,111 a year, starting with the 1981-82 session. Senate President pro Tempore James R. Mills reported that there had been no public outcry against the proposal to raise salaries a maximum of 10 percent.

Senate (24D, 16R)	SB 1244 AB 1551 SB 1205 SCR 16 SB 190	AB 1348 AB 197 AB 546 AB 234 SB 364		SB 1244 AB 1551 SB 1205 SCR 16 SB 190	AB 1348 AB 197 AB 546 AB 234 SB 364
Alquist (D)	Y N Y Y Y	Y Y Y N Y	Montoya (D)	* * * Y Y	N Y * Y Y
Ayala (D)	Y N Y * Y	N Y Y Y Y	Nejedly (R)	Y N * Y N	N * Y N Y
Beverly (R)	Y Y * Y Y	Y N Y Y Y	Nielsen (R)	Y N * Y Y	N N Y Y N
Briggs (R)	Y N * Y Y	N N N N N	Nimmo (R)	Y N N * Y	* N * N Y
Campbell (R)	Y * Y Y Y	N N N N Y	Petriss (D)	N * N N N	Y Y * Y Y
Carpenter (D)	Y Y Y Y Y	N Y * Y N	Presley (D)	* N Y Y Y	N Y Y N Y
Craven (R)	Y N N Y Y	N N * N Y	Rains (D)	N N Y Y Y	Y Y Y Y *
Cusanovich (R)	Y N Y Y N	N N * N Y	Richardson (R)	Y * * * N	N N Y N *
Dills (D)	Y N Y * Y	Y * Y N Y	Robbins (D)	Y * Y * Y	Y Y Y * *
Foran (D)	N N N N *	N N N N Y	Roberti (D)	N N Y * N	N Y Y Y Y
Garamendi (D)	N N Y Y N	N Y Y N N	Rodda (D)	N Y N * N	Y Y Y Y Y
Garcia, A. (D)	Y N Y Y Y	Y Y Y Y Y	Russell (R)	Y * N Y Y	N N N N Y
Garcia M. (R)	N N N Y Y	Y N Y N Y	Schmitz (R)	Y N * Y N	N N N N Y
Greene (D)	N Y Y * Y	Y Y Y Y Y	Sieroty (D)	N Y Y * N	Y Y Y Y Y
Holmdahl (D)	Y N Y N N	Y Y N N Y	Smith (D)	N Y Y Y N	Y Y Y Y Y
Johnson (R)	Y N N Y Y	N N Y N N	Speraw (R)	Y N Y Y Y	N N Y N Y
Keene (D)	Y N Y N Y	Y Y Y Y Y	Stiern (D)	N Y N N Y	N Y Y N N
Maddy (R)	Y N Y Y Y	N N Y N Y	Vuich (D)	Y N * Y Y	Y Y Y Y N
Marks (R)	N Y Y Y Y	Y Y Y Y Y	Watson (D)	N Y Y N Y	Y Y Y Y Y
Mills (D)	N Y Y * N	Y N * Y Y	Wilson (D)	Y N Y N Y	N N Y N Y

Senate

EDUCATION

SB 1244 (Robbins) — Requires plaintiffs in school-integration cases to prove the existence of segregation, instead of requiring districts to prove they did not engage in intentional segregation. Urgency clause defeated, 23-15 (27 votes required).

AB 1551 (Vasconcellos) — Requires that non-voting student members of community-college governing boards be elected by the students. Defeated, 11-23.

ENVIRONMENT

SB 1205 (Roberti) — Creates the California Energy Development Authority to provide financial assistance to developers of alternative energy sources. Urgency clause defeated, 23-8 (27 votes required).

SCR 16 (Briggs) — Asks the federal Environmental Protection Agency to extend the deadline for states to enact vehicle-inspection programs. Adopted, 23-7.

HEALTH

SB 190 (Rodda) — Vote on override of

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through mid-September. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes **N - No**
* — Absent or not voting

A $\frac{2}{3}$ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. ($\frac{2}{3}$ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. ($\frac{2}{3}$ = 27 votes)

governor's veto of \$42 million in additional funds for providers of Medi-Cal services. Override approved, 27-12.

AB 1348 (Egeland) — Provides continued state funding for Medi-Cal abortions. Vote on amendment removing restrictions on first trimester abortions. Defeated, 17-22.

JUSTICE

AB 197(McCarthy) — Establishes procedures for the evaluation of the governor's judicial nominees by the State Bar. This is designed to prevent the lieutenant governor from appointing judges when the governor is out

of state Passed, 21-17.

AB 546 (Mori) — Creates new crime of spousal rape. Passed, 27-6.

M SCCELLANEOUS

AB 224 (Berran) Prohibits discrimination against students in the rental of housing. Defeated, 18-21.

SB 364 (Senate Rules Committee) — Increases salaries of legislators 10 percent, effective December 1st, 1980. Approved, 30-7.

Assembly

BUSINESS AND CONSUMER AFFAIRS

AB 301 (Aquist) — Ends regulation of telephone directory advertising rates. Passed, 50-21.

SB 401 (Robbins) — Allows companies selling credit life and disability insurance to allocate a larger portion of premiums to commissions and a smaller share to benefits. Passed, 42-26.

EMPLOYMENT

SB 213 (Greene) — Prohibits sex discrimination in the assignment of jailers. Passed, 55-12.

SB 504 (Nmmo) — Prohibits growers and labor unions from discriminating against employees for not belonging to unions. Passed, 46-30.

MISCELLANEOUS

SB 811 (Petrus) — Requires that all buildings conform to fire-safety regulations by January 1st, 1982. Passed, 56-21.

AB 197 (McCarthy) — Establishes procedures for State Bar review of the governor's judicial nominees. (See Senate votes.) Passed, 52-21.

SB 1087 (Cills) — Authorizes garbage-disposal districts to impose service fees. Defeated, 34-39.

AB 462 (Melo) — Exempts 10,000 acres of land from jurisdiction of the Coastal Commission. Passed, 62-17.

Assembly (50D, 30R)

	AB 301 SB 401 SB 213 SB 504	SB 811 AB 197 SB 1087 AB 462		AB 301 SB 401 SB 213 SB 504	SB 811 AB 197 SB 1087 AB 462
Agnos (D)	NNYN	YYYY	Kelley (R)	Y * NY	NNNN
Alatorre (D)	YNYN	YYYY	Knox (D)	YYYN	YYYY
Bane (D)	NNYY	YNNY	Lancaster (R)	NY * Y	N * NN
Bannai (R)	YYYY	YNNY	Lehman (D)	YYYY	NNYY
Bates (D)	NNYN	YYYY	Leonard (R)	YYNY	NNNN
Bergeson (R)	YN * Y	NNNY	Levine (D)	YN * N	YY * Y
Berman (D)	YNYN	YYYY	Lockyer (D)	NNYN	YYNY
Boatwright (D)	* YYY	YYYY	Mangers (D)	Y * YY	YYNY
Bosco (D)	YNNY	YNNY	McAlister (D)	YNNY	YY * Y
Brown, D. (R)	YYNY	NNNY	McCarthy (D)	YN * N	YYYY
Brown, W. (D)	* NYN	YYYY	McVittie (D)	YYYY	YYYY
Calvo (D)	YN * N	YYNY	Mello (D)	YYYY	YYYY
Chacon (D)	YNYN	YYYY	Moore (D)	YNNY	YYNY
Chappie (R)	YY * Y	NNNY	Moorhead (R)	* NYY	YYYY
Cline (R)	YYYY	NNNY	Mori (D)	Y * * Y	YYYY
Costa (D)	YY * Y	YYYY	Mountjoy (R)	* Y * Y	NNNN
Deddeh (D)	NYYN	YYNY	Naylor (R)	YYYY	NNNY
Duffy (R)	YY * Y	NNNN	Nestande (R)	N * * Y	YYYY
Egeland (D)	NYYN	YYYY	Nolan (R)	YNNY	NNNN
Elder (D)	YYYN	YYYY	Papan (D)	* YYY	YYYN
Ellis (R)	NYYN	Y * NN	Perino (D)	YYYY	YYYY
Felando (R)	NNYY	NNNY	Priolo (R)	YY * *	* * * Y
Fenton (D)	N * Y *	* * * Y	Robinson (D)	Y * YY	YYYY
Filante (R)	Y * YY	* NNY	Rogers (R)	Y * YY	NNNN
Frazee (R)	YYYY	YYNY	Roos (D)	NYYN	YY * Y
Gage (D)	YNYN	YYNY	Rosenthal (D)	* * YN	YYYY
Goggin (D)	* * YN	YYYY	Ryan (R)	YYYY	Y * YY
Greene (D)	N * YN	YYNY	Statham (R)	YYYY	NNNN
Hallett (R)	YNNY	NNNN	Stirling (R)	YYYY	N * NN
Hannigan (D)	NNNY	YYNY	Tanner (D)	YNNY	YYYY
Harris (D)	NNYN	YYYY	Thurman (D)	Y * YY	YYYY
Hart (D)	YNY *	YYNY	Torres (D)	NNYN	YYYY
Hayden (R)	YNN *	YYYY	Tucker (D)	* YNN	Y * YY
Hayes (R)	YNNY	NNNY	Vasconcellos (D)	* NNY	YYNY
Hughes (D)	YNNY	YYNY	Vicencia (D)	NYYN	YYYY
Imbrech (R)	YYYY	YNN *	Waters, M. (D)	NNYN	YYNY
Ingalls (D)	YYYY	YNNY	Waters, N. (D)	YYYY	YYNY
Ivers (R)	YNNY	NNNN	Wray (D)	YNNY	YY * Y
Johnson (R)	YNNY	NNNN	Wyman (R)	YNNY	NNNN
Kapiloff (D)	NN * N	YYNY	Young (D)	YYYY	YY * Y

Libertarian standard bearer

At a Los Angeles convention, the Libertarian Party selected **Ed Clark**, who won more than 5 percent of the vote in the 1978 gubernatorial campaign, as the party's 1980 presidential candidate. . . . State Senator **H. L. (Bill) Richardson** challenged incumbent **Bill Campbell** for the Republican leadership post in the Senate and was defeated. Richardson was then replaced as GOP caucus chairman by **Ken Maddy**, who had been elected to the Senate only last June. Campbell hopes to run for governor in 1982. . . . Another Republican senator, **John Schmitz** of Orange County, was accused of campaign law violations in a civil suit filed by the state Fair Political Practices Commission. The suit alleges that

Schmitz, the **Butcher-Forde** campaign management firm, and **Penny Raven**, a candidate for lieutenant governor, hid payments made to the consulting firm last year.

Democratic Assemblyman **Mike Gage** of Napa announced he will not run for re-election, partly because he will be working on the Brown-for-President campaign. . . . Republican Assemblyman **Paul Priolo** indicated he will abandon plans to run for United States Senate in 1980.

Sheldon Lytton resigned as chief of staff to Lieutenant Governor Mike Curb. He will be succeeded by **Ken Reitz**, who managed Curb's campaign last year. . . . **Gray Davis**, Governor Brown's chief of staff, resigned for the second time from the state

Newsmakers

Horse Racing Board. . . **Merle J. Goddard**, long-time lobbyist for the California Grocers Association, died at 56. . . . Justice **Robert S. Thompson** of the state Court of Appeal in Los Angeles retired at 61 because of "frustration." . . . **Richard E. Watson** resigned as executive director of the County Supervisors Association.

Appointments: **Mary Ann Graves**, state superintendent of banks since May, as director of finance. She succeeds **Richard Silberman**, who joined the Brown presidential campaign. . . . Former astronaut **Russell (Rusty) Schweickart**, as chairman of the state Energy Commission. He replaces **Richard Maullin**, who joined the Brown campaign.

CHARTING THE LEGISLATURE

The following is a list of significant bills pending before the Legislature on September 12th.

SUBJECT	BILLS	DESCRIPTION	STATUS
ABORTION	AB 1348 (Egeland)	Liberalizes Medi-Cal abortion coverage.	<i>Senate passed after amending bill to restrict Medi-Cal abortions severely. In conference committee.</i>
AGRICUL- TURAL LABOR RELATIONS	SB 504 (Nimmo)	Prohibits farmworker union or agricultural employer from discriminating against an employee for not joining a labor organization.	<i>Vetoed by Governor.</i>
ATTORNEYS	SB 1162 (Smith)	Reduces annual State Bar dues for lawyers by \$10 and authorizes Legislature to appoint two of the six public members of the State Bar Board of Governors.	<i>Passed Assembly. Concurrence in amendments pending.</i>
BAIL REFORM	AB 2 (Berman)	Changes the current bail system to provide a 10% bail deposit in misdemeanor cases and revises the conditions for bail release.	<i>On Senate floor.</i>
BILINGUAL EDUCATION	AB 507 (Chacon) AB 690 (Alatorre) AB 1254 (Mangers)	Extensively revise bilingual education programs in kindergarten through 12th grade. AB 1254 provides for three basic bilingual curricula and specifies teacher qualifications.	<i>AB 507 and AB 690 are pending in the Senate Finance Committee. AB 1254 is on the Senate floor.</i>
CONSTITUTIONAL OFFICERS	SB 1251 (Carpenter)	Prohibits the Governor and other statewide officers from leaving the state for more than 21 days, and imposes a fine of \$175 per day for each day of absence exceeding 21 days.	<i>Senate Governmental Organization Committee.</i>
CRIMINAL JUSTICE	SB 13 (Richardson)	Increases penalties for the commission of rape and other sexual offenses, for threats against witnesses, and for the infliction of great bodily injury during the commission of a sexual offense.	<i>Passed Assembly. Concurrence in amendments pending.</i>
	SB 500 (Robbins)	Prohibits psychiatric examinations of victims of sexual crimes to test their credibility unless there are independent grounds for suspecting the credibility of the victim.	<i>On Assembly floor.</i>
HEALTH CARE	SB 610 (Greene)	Changes standards for Medi-Cal reimbursement to physicians for maternity care services and increases reimbursement rates for emergency-room physicians.	<i>On Assembly floor.</i>
JANE FONDA	SR 22 (Carpenter)	Asks Governor to apologize to the State Senate for his denouncement of the Senate's refusal to confirm Jane Fonda's appointment to the California Arts Council.	<i>Senate Rules Committee.</i>
JUDGES	SB 53 (Dills)	Limits the annual cost-of-living salary increase for judges to the average salary increase for state employees; creates 52 judgeships throughout the state.	<i>On Assembly floor.</i>
METHANOL	AB 1401 (Boatwright)	Legalizes the sale and use of methanol fuel in vehicles.	<i>In conference committee.</i>
PHYSICIANS	AB 1957 (Filante)	Prohibits health facilities from requiring members of their medical staffs to carry malpractice insurance.	<i>Assembly Health Committee.</i>
SCHOOL FINANCE	SB 186 (Rodda)	Clean-up amendments to AB 8 (Greene/Rodda), which enacted long-term solution for replacement of revenues lost by local governments and school districts because of Proposition 13.	<i>On Assembly floor.</i>
TAXATION	AB 15 (Roos)	Increases income-tax credit for renters from \$37 to \$87 annually.	<i>Senate Revenue & Taxation Committee.</i>
	AB 66 (Lockyer)	Repeals business inventory tax, beginning with the 1980-81 fiscal year.	<i>On Senate floor.</i>
	AB 276 (Bergeson)	Provides for the annual adjustment of income tax brackets, known as income-tax indexing.	<i>On Senate floor.</i>
WELFARE	AB 381 (Boatwright)	Revises step-parent financial responsibility and welfare-fraud provisions, and reduces monthly grants for unborn children.	<i>On Senate floor.</i>

Perspective from WASHINGTON

By LEO RENNERT

In pursuit of justice

There appears to be no limit to the number of problems California wants resolved by the U.S. Supreme Court. As the nine justices begin their October term, they'll have to struggle with a heavy docket of appeals from California on such diverse topics as women's rights, environmental protection, welfare payments, race relations, consumer safeguards and juveniles' rights. Nothing seems too esoteric or too mundane for the high court's consideration — not even the price of a bottle of Gallo wine at the local liquor store, which is at issue in a suit over minimum-pricing under California's "fair trade" laws. California courts have ordered price competition in the marketing of wine and other booze. The California Retail Liquor Dealers Association is appealing.

IN THESE AND hundreds of cases, after many years of preliminary rounds in other forums, the justices now are asked to render a final verdict. And that, after all, is what makes them such a powerful and fascinating institution. At a time of uncertainty and shifting values, the Supreme Court continues to dish out fixed answers. It's the great oracle for our secular malaise. Even when the justices refuse to accept a case, they still have the final word. A turned-down appeal is more than a legal strikeout; it means the unsuccessful petitioner is stuck with the lower-court ruling he was trying to overturn. Thus, abstention by the justices can have as telling an effect on a litigant as intervention.

The rush to the nation's highest tribunal — in many ways, it has become a stampede — continues to point up the inability of elected state and federal officials to deal with tough social, economic and racial problems. When governments and presidents, legislatures and Congress fall down on the job, the courts are not arbiters in isolated disputes; they become the policymakers and rulers of last resort.

A sampling of petitions that arrived from California in just the last few months illustrates the point. Does the Los Angeles Police Department discriminate against women when it insists that cops must be at least 5 feet, 6 inches tall and must pass rigorous physical-fitness tests? U.S. District Judge Jesse W. Curtis of Los Angeles didn't think so. "Many men, because of their physical characteristics, can perform certain important functions better than a large majority of women," he observed. But the U.S. Ninth Circuit Court of Appeals in San Francisco overruled him with an opinion written by a female jurist — Shirley Hufstедler. She ordered Los Angeles to find some other qualification tests which don't exclude nine out of 10 women right from the start. Who is right? Who will prevail? Nine men will decide. In the meantime, law enforcement agencies from all over the country are rushing in with friend-of-the-court briefs on the side of their beleaguered Los Angeles brethren. The police establishment is clearly worried.

Should Nevada be allowed to build more casino-hotels right at the edge of its border with California at scenic Lake Tahoe? California Attorney General George Deukmejian wants the high court to accept a novel version of the old common-law nuisance claim. The new gambling palaces, he argues, will have an ugly spillover effect on California by dumping smog, congested traffic, housing problems and demands for more sewage facilities across the state line. As with other types of nuisances, why shouldn't the aggrieved party be able to sue the offending neighbor? The Ninth Circuit was unconvinced, although it wasn't exactly sure which interstate nuisance might qualify for an injunction — and which might not. "The line is not a bright one, but we cannot consider high-rise hotels and their occupants as indistinguishable from untreated sewage, noxious gases and poisonous pesticides," it declared. Now, it's up to the Supreme Court to roll the dice.

Deukmejian may have an even harder time convincing the justices that the California Supreme Court was wrong when it limited the power of trial judges to coax a verdict out of a divided jury, thereby annulling the conviction of Russell Little for the Symbionese Liberation Army murder of Oakland Schools Superintendent Marcus Foster. Deukmejian wants the high court to give all the people of California a 14th Amendment right against what he considers illegal tampering with criminal jurisprudence by the state's top court. It's a tall order. Whatever their law-and-order sentiments, the justices here would have to be more activist than Earl Warren in his heyday to buy that argument.

FOR CALIFORNIA, the new term will feature several assaults by Deukmejian against rulings by Chief Justice Rose Bird and the liberal majority on the state Supreme Court. Deukmejian is asking the Burger Court to overturn split rulings which held that police couldn't examine without a warrant a tote bag in the locked trunk of a getaway car stopped after a robbery, that indigent defendants are entitled to counsel when the state files civil paternity suits against suspected fathers of welfare children, and that teenagers' personal possessions can't be searched without a warrant by police looking for marijuana — even when the officer has full parental consent. In the latter case, the California Supreme Court tipped 5 to 2 in favor of a 17-year-old boy's constitutional right against unreasonable search and seizure of a toolbox. Deukmejian wants the U.S. Supreme Court to go the other way and proclaim that parents have an overriding constitutional right to "care for, discipline and control minor children." The boy's toolbox, it turned out, contained nine small bags of "grass."

For the boy, the parents, the cops and other players in countless dramas, it's the beginning of the last act.

Low-cost Christmas gifts that educate and entertain from the California Journal

We really aren't embarrassed to raise the subject of Christmas gifts even before Halloween. That's because we have two of the best bargain gifts in California — gifts that are informative, educational and at the same time entertaining. And the best news of all is that the prices can fit any budget.

Suggestion number one for only \$15: a gift subscription to the *California Journal*. It makes the ideal present for anyone interested in California government and politics, and it keeps coming 12 months a year. We'll send a card to the recipient informing him or her of your thoughtfulness. For each gift subscription, send a check for \$15 (\$3 off the regular annual rate) or your Visa or Master

Charge number to our subscription department at 1617 10th St., Sacramento 95814.

Suggestion number two for only \$5.25, tax included: a great gift book — *The Cartoon History of California Politics*, by Ed Salzman and Ann Leigh Brown.

This lively, 156-page oversized book contains more than 100 cartoons illustrating California's colorful political history, from the Gold Rush to the New Spirit.

Among the artists represented: Thomas Nast, Lou Grant, Dennis Renault, Robert Graysmith, Edward Keller and Paul Conrad.



Send orders to the *California Journal Press*, 1617 10th St., Sacramento 95814. (For a listing of other books available from *CJ Press*, see the advertisement and tearout card inside this magazine.)

When two men agree on everything, you can be sure one of them is doing all the thinking.

— Sam Rayburn

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED